

# SENATE BILL No. 1269

September 12, 2012, Introduced by Senator KOWALL and referred to the Committee on Economic Development.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 22203, 22207, 22209, 22211, 22213, 22215, and 22219 (MCL 333.22203, 333.22207, 333.22209, 333.22211, 333.22213, 333.22215, and 333.22219), sections 22203, 22207, 22209, 22211, 22213, and 22215 as amended and section 22219 as added by 2002 PA 619; and to repeal acts and parts of acts.

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

1       Sec. 22203. (1) "Addition" means adding patient rooms, beds,  
2       and ancillary service areas, including, but not limited to,  
3       procedure rooms or fixed equipment, surgical operating rooms,  
4       therapy rooms or fixed equipment, or other accommodations to a  
5       health facility.

6       (2) "Capital expenditure" means an expenditure for a single  
7       project, including cost of construction, engineering, and equipment

1 that under generally accepted accounting principles is not properly  
2 chargeable as an expense of operation. Capital expenditure includes  
3 a lease or comparable arrangement by or on behalf of a health  
4 facility to obtain a health facility, licensed part of a health  
5 facility, or equipment for a health facility, if the actual  
6 purchase of a health facility, licensed part of a health facility,  
7 or equipment for a health facility would have been considered a  
8 capital expenditure under this part. Capital expenditure includes  
9 the cost of studies, surveys, designs, plans, working drawings,  
10 specifications, and other activities essential to the acquisition,  
11 improvement, expansion, addition, conversion, modernization, new  
12 construction, or replacement of physical plant and equipment.

13 (3) "Certificate of need" means a certificate issued under  
14 this part authorizing a new health facility, a change in bed  
15 capacity, the initiation, replacement, or expansion of a covered  
16 clinical service, or a covered capital expenditure that is issued  
17 in accordance with this part.

18 (4) "Certificate of need review standard" or "review standard"  
19 means a standard approved by the commission.

20 (5) "Change in bed capacity" means 1 or more of the following:

21 (a) An increase in licensed hospital beds.

22 (b) An increase in licensed nursing home beds or hospital beds  
23 certified for long-term care.

24 (c) An increase in licensed psychiatric beds.

25 (d) A change from 1 licensed use to a different licensed use.

26 (e) The physical relocation of beds from a licensed site to  
27 another geographic location.

1           (6) "Clinical" means directly pertaining to the diagnosis,  
2 treatment, or rehabilitation of an individual.

3           (7) "Clinical service area" means an area of a health  
4 facility, including related corridors, equipment rooms, ancillary  
5 service and support areas that house medical equipment, patient  
6 rooms, patient beds, diagnostic, operating, therapy, or treatment  
7 rooms or other accommodations related to the diagnosis, treatment,  
8 or rehabilitation of individuals receiving services from the health  
9 facility.

10          (8) "Commission" means the certificate of need commission  
11 created under section 22211.

12          (9) "Covered capital expenditure" means a capital expenditure  
13 of \$2,500,000.00 or more, as adjusted annually by the department  
14 under section 22221(g), by a person for a health facility for a  
15 single project, excluding the cost of nonfixed medical equipment,  
16 that includes or involves the acquisition, improvement, expansion,  
17 addition, conversion, modernization, new construction, or  
18 replacement of a clinical service area.

19          (10) "Covered clinical service", except as modified by the  
20 commission under section 22215, means 1 or more of the following:

21           (a) Initiation or expansion of 1 or more of the following  
22 services:

23           (i) Neonatal intensive care services or special newborn nursing  
24 services.

25           (ii) Open heart surgery.

26           (iii) Extrarenal organ transplantation.

27           (b) Initiation, replacement, or expansion of 1 or more of the

1 following services:

2 (i) Extracorporeal shock wave lithotripsy.

3 (ii) Megavoltage radiation therapy.

4 (iii) Positron emission tomography.

5 (iv) Surgical services provided in a freestanding surgical  
6 outpatient facility, an ambulatory surgery center certified under  
7 title XVIII, or a surgical department of a hospital licensed under  
8 part 215 and offering inpatient or outpatient surgical services.

9 (v) Cardiac catheterization.

10 (vi) Fixed and mobile magnetic resonance imager services.

11 (vii) Fixed and mobile computerized tomography scanner  
12 services.

13 (viii) Air ambulance services.

14 (c) Initiation or expansion of a specialized psychiatric  
15 program for children and adolescent patients utilizing licensed  
16 psychiatric beds.

17 (d) Initiation, replacement, or expansion of a service not  
18 listed in this subsection, but designated as a covered clinical  
19 service by the commission under section 22215(1)(a).

20 (11) "Fixed equipment" means equipment that is affixed to and  
21 constitutes a structural component of a health facility, including,  
22 but not limited to, mechanical or electrical systems, elevators,  
23 generators, pumps, boilers, and refrigeration equipment.

24 Sec. 22207. (1) "Medicaid" means the program for medical  
25 assistance administered by the department of ~~community health~~ under  
26 the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

27 (2) "Modernization" means an upgrading, alteration, or change

1 in function of a part or all of the physical plant of a health  
2 facility. Modernization includes, but is not limited to, the  
3 alteration, repair, remodeling, and renovation of an existing  
4 building and initial fixed equipment and the replacement of  
5 obsolete fixed equipment in an existing building. Modernization of  
6 the physical plant does not include normal maintenance and  
7 operational expenses.

8 (3) "New construction" means construction of a health facility  
9 where a health facility does not exist or construction replacing or  
10 expanding an existing health facility or a part of an existing  
11 health facility.

12 (4) "Person" means a person as defined in section 1106 or a  
13 governmental entity.

14 (5) "Planning area" means the area defined in a certificate of  
15 need review standard for determining the need for, and the resource  
16 allocation of, a specific health facility, service, or equipment.  
17 Planning area includes, but is not limited to, the state, a health  
18 facility service area, or a health service area or subarea within  
19 the state.

20 (6) "Proposed project" means a proposal to acquire an existing  
21 health facility or begin operation of a new health facility, make a  
22 change in bed capacity, initiate, replace, or expand a covered  
23 clinical service, or make a covered capital expenditure.

24 (7) **"PUBLIC MEMBER" MEANS A MEMBER OF THE GENERAL PUBLIC WHO**  
25 **IS NOT A LICENSEE OR REGISTRANT UNDER THIS ARTICLE OR ARTICLE 15,**  
26 **IS A RESIDENT OF THIS STATE, IS NOT LESS THAN 18 YEARS OF AGE, DOES**  
27 **NOT HAVE AN OWNERSHIP INTEREST IN OR A CONTRACTUAL RELATIONSHIP**

1 WITH A HEALTH FACILITY, DOES NOT HAVE A MATERIAL FINANCIAL INTEREST  
 2 IN THE PROVISION OF HEALTH SERVICES, AND HAS NOT HAD A MATERIAL  
 3 FINANCIAL INTEREST IN THE PROVISION OF HEALTH SERVICES WITHIN THE  
 4 12 MONTHS IMMEDIATELY PRECEDING THE APPOINTMENT TO THE COMMISSION.

5 (8) ~~(7)~~—"Rural county" means a county not located in a  
 6 metropolitan statistical area or micropolitan statistical areas as  
 7 those terms are defined under the "standards for defining  
 8 metropolitan and micropolitan statistical areas" by the statistical  
 9 policy office of the office of information and regulatory affairs  
 10 of the United States office of management and budget, 65 F.R. p.  
 11 82238 (December 27, 2000).

12 (9) ~~(8)~~—"Stipulation" means a requirement that is germane to  
 13 the proposed project and has been agreed to by an applicant as a  
 14 condition of certificate of need approval.

15 Sec. 22209. (1) Except as otherwise provided in this part, a  
 16 person shall not do any of the following without first obtaining a  
 17 certificate of need:

18 (a) Acquire an existing health facility or begin operation of  
 19 a health facility at a site that is not currently licensed for that  
 20 type of health facility.

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

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

23 (d) Make a covered capital expenditure.

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

26 (3) ~~Subject to subsection (9) and if the~~ **IF A HOSPITAL BED**  
 27 relocation does not result in an increase of licensed beds within

1 that health service area, a certificate of need is not required for  
2 any of the following:

3 (a) The physical relocation of licensed beds from a hospital  
4 site licensed under part 215 to another hospital site licensed  
5 under the same license as the hospital seeking to transfer the beds  
6 if both hospitals are located within a 2-mile radius of each other.

7 (b) Subject to subsections (7) and (8) **AND PROVIDED THAT**  
8 **CONSTRUCTION OF THE NEW FACILITY COMMENCES NOT LATER THAN 12 MONTHS**  
9 **AFTER THE EFFECTIVE DATE OF THE 2012 AMENDATORY ACT THAT AMENDED**  
10 **THIS SECTION**, the physical relocation of licensed beds from a  
11 hospital licensed under part 215 to a freestanding surgical  
12 outpatient facility **SITE** licensed under part 208 if that  
13 freestanding surgical outpatient facility satisfies each of the  
14 following criteria: ~~on December 2, 2002:~~

15 (i) Is owned by, is under common control of, or has as a ~~common~~  
16 ~~parent~~ **OWNERSHIP IN COMMON WITH** the hospital seeking to relocate  
17 its licensed beds.

18 (ii) Was licensed prior to January 1, ~~2002~~ **2010**.

19 (iii) Provides 24-hour **URGENT OR** emergency care services at that  
20 site.

21 (iv) Provides at least 4 different covered clinical services at  
22 that site.

23 (v) **IS LOCATED WITHIN AN 8-MILE RADIUS OF THE HOSPITAL SEEKING**  
24 **TO RELOCATE ITS LICENSED BEDS.**

25 (vi) **IS LOCATED IN A COUNTY WITH A POPULATION OF 1,200,000 OR**  
26 **MORE.**

27 (c) Subject to subsections (7) and (8), the physical

1 relocation of licensed beds from a hospital licensed under part 215  
2 to another hospital licensed under part 215 within the same health  
3 service area if the hospital receiving the licensed beds is owned  
4 by, is under common control of, or has as a common parent the  
5 hospital seeking to relocate its licensed beds.

6 (4) Subject to subsection (5), a hospital licensed under part  
7 215 is not required to obtain a certificate of need to provide 1 or  
8 more of the covered clinical services listed in section 22203(10)  
9 in a federal veterans health care facility or to use long-term care  
10 unit beds or acute care beds that are owned and located in a  
11 federal veterans health care facility if the hospital satisfies  
12 each of the following criteria:

13 (a) The hospital has an active affiliation or sharing  
14 agreement with the federal veterans health care facility.

15 (b) The hospital has physicians who have faculty appointments  
16 at the federal veterans health care facility or has an affiliation  
17 with a medical school that is affiliated with a federal veterans  
18 health care facility and has physicians who have faculty  
19 appointments at the federal veterans health care facility.

20 (c) The hospital has an active grant or agreement with the  
21 state or federal government to provide 1 or more of the following  
22 functions relating to bioterrorism:

23 (i) Education.

24 (ii) Patient care.

25 (iii) Research.

26 (iv) Training.

27 (5) A hospital that provides 1 or more covered clinical



1 services in a federal veterans health care facility or uses long-  
2 term care unit beds or acute care beds located in a federal  
3 veterans health care facility under subsection (4) may not utilize  
4 procedures performed at the federal veterans health care facility  
5 to demonstrate need or to satisfy a certificate of need review  
6 standard unless the covered clinical service provided at the  
7 federal veterans health care facility was provided under a  
8 certificate of need.

9 (6) If a hospital licensed under part 215 had fewer than 70  
10 licensed beds, ~~on December 1, 2002,~~ that hospital is not required  
11 to satisfy the minimum volume requirements under the certificate of  
12 need review standards for its existing operating rooms as long as  
13 those operating rooms continue to exist at that licensed hospital  
14 site.

15 (7) Before relocating beds under subsection (3)(b), the  
16 hospital seeking to relocate its beds shall provide the information  
17 requested by the department of ~~consumer and industry services~~  
18 **LICENSING AND REGULATORY AFFAIRS** that will allow the department of  
19 ~~consumer and industry services~~ **LICENSING AND REGULATORY AFFAIRS** to  
20 verify the number of licensed beds ~~that were staffed and available~~  
21 ~~for patient care at that hospital. as of December 2, 2002. A~~  
22 ~~hospital shall transfer no more than 35% of its licensed beds to~~  
23 ~~another hospital or freestanding surgical outpatient facility under~~  
24 ~~subsection (3)(b) or (c) not more than 1 time after the effective~~  
25 ~~date of the amendatory act that added this subsection if the~~  
26 ~~hospital seeking to relocate its licensed beds or another hospital~~  
27 ~~owned by, under common control of, or having as a common parent the~~

1 ~~hospital seeking to relocate its licensed beds is located in a city~~  
2 ~~that has a population of 750,000 or more.~~

3 (8) The licensed beds relocated under subsection (3)(b) or (c)  
4 shall not be included as new beds in a hospital or as a new  
5 hospital under the certificate of need review standards for  
6 hospital beds. ~~One of every 2 beds transferred under subsection~~  
7 ~~(3)(b) up to a maximum of 100 shall be beds that were staffed and~~  
8 ~~available for patient care as of December 2, 2002. A hospital~~  
9 ~~relocating beds under subsection (3)(b) shall not reactivate~~  
10 ~~licensed beds within that hospital that were unstaffed or~~  
11 ~~unavailable for patient care on December 2, 2002 for a period of 5~~  
12 ~~years after the date of the relocation of the licensed beds under~~  
13 ~~subsection (3)(b).~~ **SERVICES AT THE NEW SITE SHALL NOT BE CONSIDERED**  
14 **AN INITIATION, REPLACEMENT, OR EXPANSION OF COVERED CLINICAL**  
15 **SERVICES FOR THE PURPOSES OF SUBSECTION (1)(C) IF THOSE SAME**  
16 **SERVICES ARE PROVIDED AT THE NEW SITE AT THE TIME OF RELOCATION OF**  
17 **BEDS AND IN BUILDINGS THAT ARE PHYSICALLY CONNECTED.**

18 ~~— (9) No licensed beds shall be physically relocated under~~  
19 ~~subsection (3) if 7 or more members of the commission, after the~~  
20 ~~appointment and confirmation of the 6 additional commission members~~  
21 ~~under section 22211 but before June 15, 2003, determine that~~  
22 ~~relocation of licensed beds under subsection (3) may cause great~~  
23 ~~harm and detriment to the access and delivery of health care to the~~  
24 ~~public and the relocation of beds should not occur without a~~  
25 ~~certificate of need.~~

26 (9) ~~(10)~~ An applicant seeking a certificate of need for the  
27 acquisition of an existing health facility may file a single,

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

21 (10) ~~(11)~~—An applicant seeking a certificate of need for the  
22 relocation or replacement of an existing health facility may file a  
23 single, consolidated application for the certificate of need if the  
24 project does not result in an increase of licensed beds or the  
25 initiation, expansion, or replacement of a covered clinical  
26 service. A person relocating or replacing an existing health  
27 facility is subject to the applicable certificate of need review

1 standards in effect on the date of the relocation or replacement of  
2 the health facility.

3 (11) ~~(12)~~As used in this section, "sharing agreement" means a  
4 written agreement between a federal veterans health care facility  
5 and a hospital licensed under part 215 for the use of the federal  
6 veterans health care facility's beds or equipment, or both, to  
7 provide covered clinical services.

8 Sec. 22211. (1) The certificate of need commission is created  
9 in the department. The commission shall consist of ~~11~~13 members  
10 appointed by the governor with the advice and consent of the  
11 senate. The governor shall not appoint more than 6 members from the  
12 same major political party and shall appoint 5 members from ~~another~~  
13 **OTHER** major political party. ~~The members constituting the~~  
14 ~~commission on the day before the effective date of the amendatory~~  
15 ~~act that added subdivision (a) shall serve on the commission for~~  
16 ~~the remainder of their terms. On the expiration of the term of each~~  
17 ~~member constituting the commission on the day before the effective~~  
18 ~~date of the amendatory act that added subdivision (a), the governor~~  
19 ~~shall appoint a successor as required under this section in~~  
20 ~~accordance with subdivisions (f), (g), (h), (i), and (j) and in~~  
21 ~~that order. Of the additional members, the governor, within 30 days~~  
22 ~~after the effective date of the amendatory act that added~~  
23 ~~subdivision (a), shall appoint 6 additional members to the~~  
24 ~~commission as required under subdivisions (a), (b), (c), (d), and~~  
25 ~~(e).~~ **PARTIES.** The commission shall consist of the following ~~11~~13  
26 members:

27 (a) Two individuals representing hospitals.

1 (b) One individual representing physicians licensed under part  
2 170 to engage in the practice of medicine.

3 (c) One individual representing physicians licensed under part  
4 175 to engage in the practice of osteopathic medicine and surgery.

5 (d) One individual who is a physician licensed under part 170  
6 or 175 representing a school of medicine or osteopathic medicine.

7 (e) One individual representing nursing homes.

8 (f) One individual representing nurses.

9 (g) One individual representing a company that is self-insured  
10 for health coverage.

11 (h) One individual representing a company that is not self-  
12 insured for health coverage.

13 (i) One individual representing a nonprofit health care  
14 corporation operating ~~pursuant to~~ **UNDER** the nonprofit health care  
15 corporation reform act, 1980 PA 350, MCL 550.1101 to ~~550.1703~~  
16 **550.1704**.

17 (j) One individual representing organized labor unions in this  
18 state.

19 **(K) TWO PUBLIC MEMBERS, 1 OF WHOM SHALL BE THE CHAIRPERSON.**

20 (2) In making appointments, the governor shall, to the extent  
21 feasible, assure that the membership of the commission is broadly  
22 representative of the interests of all of the people of this state  
23 and of the various geographic regions.

24 (3) A member of the commission shall serve for a term of 3  
25 years or until a successor is appointed. ~~Of the 6 members appointed~~  
26 ~~within 30 days after the effective date of the amendatory act that~~  
27 ~~added subsection (1)(a), 2 of the members shall be appointed for a~~

1 ~~term of 1 year, 2 of the members shall be appointed for a term of 2~~  
2 ~~years, and 2 of the members shall be appointed for a term of 3~~  
3 ~~years.~~—A vacancy on the commission shall be filled for the  
4 remainder of the unexpired term in the same manner as the original  
5 appointment.

6 (4) Commission members are subject to the following:

7 (a) 1968 PA 317, MCL 15.321 to 15.330.

8 (b) 1973 PA 196, MCL 15.341 to 15.348.

9 (c) 1978 PA 472, MCL 4.411 to 4.431.

10 Sec. 22213. (1) The commission shall, within 2 months after  
11 appointment and confirmation of all members, adopt bylaws for the  
12 operation of the commission. The bylaws shall include, at a  
13 minimum, voting procedures that protect against conflict of  
14 interest and minimum requirements for attendance at meetings.

15 (2) The governor may remove a commission member from office  
16 for failure to attend 3 consecutive meetings in a 1-year period.

17 (3) The commission annually shall elect a chairperson, **WHO**  
18 **SHALL BE A PUBLIC MEMBER,** and **A** vice-chairperson.

19 (4) **IF THE COMMISSION'S AGENDA INCLUDES A CONFLICT OF INTEREST**  
20 **FOR THE CHAIRPERSON, THE VICE-CHAIRPERSON SHALL LEAD THE**  
21 **DISCUSSION.**

22 (5) ~~(4)~~—The commission shall hold regular quarterly meetings  
23 at places and on dates fixed by the commission. Special meetings  
24 may be called by the chairperson, by not less than 3 commission  
25 members, or by the department.

26 (6) ~~(5)~~—A majority of the commission members appointed and  
27 serving constitutes a quorum. Final action by the commission shall

1 be only by affirmative vote of a majority of the commission members  
2 appointed and serving. A commission member shall not vote by proxy.

3 (7) ~~(6)~~—The legislature annually shall fix the per diem  
4 compensation of members of the commission. Expenses of members  
5 incurred in the performance of official duties shall be reimbursed  
6 as provided in section 1216.

7 (8) ~~(7)~~—The department shall furnish administrative services  
8 to the commission, shall have charge of the commission's offices,  
9 records, and accounts, and shall provide ~~at least 2 full-time~~  
10 ~~administrative employees, secretarial staff, and other staff~~  
11 ~~necessary to allow the proper exercise of the powers and duties of~~  
12 ~~the commission.~~ **SUFFICIENT STAFF TO SUPPORT THE WORK OF THE**  
13 **COMMISSION.** The department shall make available the times and  
14 places of commission meetings and keep minutes of the meetings and  
15 a record of the actions of the commission. The department shall  
16 make available a brief summary of the actions taken by the  
17 commission.

18 (9) ~~(8)~~—The department shall assign at least 2 full-time  
19 professional employees to staff the commission to assist the  
20 commission in the performance of its substantive responsibilities  
21 under this part.

22 Sec. 22215. (1) The commission shall do all of the following:

23 (a) If determined necessary by the commission, revise, add to,  
24 or delete 1 or more of the covered clinical services listed in  
25 section 22203. If the commission proposes to add to the covered  
26 clinical services listed in section 22203, the commission shall  
27 develop proposed review standards and make the review standards

1 available to the public not less than 30 days before conducting a  
2 hearing under subsection (3).

3 (b) Develop, approve, disapprove, or revise certificate of  
4 need review standards that establish for purposes of section 22225  
5 the need, if any, for the initiation, replacement, or expansion of  
6 covered clinical services, the acquisition or beginning the  
7 operation of a health facility, making changes in bed capacity, or  
8 making covered capital expenditures, including conditions,  
9 standards, assurances, or information that must be met,  
10 demonstrated, or provided by a person who applies for a certificate  
11 of need. A certificate of need review standard may also establish  
12 ongoing quality assurance requirements including any or all of the  
13 requirements specified in section 22225(2)(c). Except for nursing  
14 home and hospital long-term care unit bed review standards, by  
15 January 1, 2004, the commission shall revise all certificate of  
16 need review standards to include a requirement that each applicant  
17 participate in title XIX of the social security act, ~~chapter 531,~~  
18 ~~49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.42 USC 1396 TO 1396W-5.~~

19 (c) Direct the department to prepare and submit  
20 recommendations regarding commission duties and functions that are  
21 of interest to the commission including, but not limited to,  
22 specific modifications of proposed actions considered under this  
23 section.

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

26 (e) Annually assess the operations and effectiveness of the  
27 certificate of need program based on periodic reports from the



1 department and other information available to the commission.

2 (f) By January 1, 2005, and every 2 years ~~thereafter~~, **AFTER**  
3 **THAT**, make recommendations to the joint committee regarding  
4 statutory changes to improve or eliminate the certificate of need  
5 program.

6 (g) Upon submission by the department approve, disapprove, or  
7 revise standards to be used by the department in designating a  
8 regional certificate of need review agency. ~~, pursuant to section~~  
9 ~~22226.~~

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

12 (i) In accordance with section 22255, approve, disapprove, or  
13 revise proposed procedural rules for the certificate of need  
14 program.

15 (j) Consider the recommendations of the department and the  
16 department of attorney general as to the administrative feasibility  
17 and legality of proposed actions under subdivisions (a), (b), and  
18 (c).

19 (k) Consider the impact of a proposed restriction on the  
20 acquisition of or availability of covered clinical services on the  
21 quality, availability, and cost of health services in this state.  
22 **THE COMMISSION SHALL ALSO EVALUATE ALL CERTIFICATE OF NEED REVIEW**  
23 **STANDARDS TO DETERMINE IF THE LANGUAGE ALLOWS FOR ACTUAL APPROVAL**  
24 **OF AN APPLICATION. IF THE COMMISSION DETERMINES THAT A SERVICE WILL**  
25 **BE CAPPED AT A SPECIFIC NUMBER OF PROVIDERS, THE COMMISSION SHALL**  
26 **EXPRESS THAT DETERMINATION PLAINLY IN THE REVIEW STANDARDS.**

27 (l) If the commission determines it necessary, appoint standard

1 advisory committees to assist in the development of proposed  
2 certificate of need review standards. A standard advisory committee  
3 shall complete its duties under this subdivision and submit its  
4 recommendations to the commission within 6 months unless a shorter  
5 period of time is specified by the commission when the standard  
6 advisory committee is appointed. **VOTING ON ALL MOTIONS BEFORE THE**  
7 **COMMITTEES SHALL BE DOCUMENTED BY A ROLL CALL VOTE AND SHALL BE**  
8 **RECORDED IN THE MINUTES.** An individual shall serve on no more than  
9 2 standard advisory committees in any 2-year period. The  
10 composition of a standard advisory committee shall not include a  
11 lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but  
12 shall include all of the following:

13 (i) Experts with professional competence in the subject matter  
14 of the proposed standard, who shall constitute a 2/3 majority of  
15 the standard advisory committee.

16 (ii) Representatives of health care provider organizations  
17 concerned with licensed health facilities or licensed health  
18 professions.

19 (iii) Representatives of organizations concerned with health  
20 care consumers and the purchasers and payers of health care  
21 services.

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

25 (n) If a standard advisory committee is not appointed by the  
26 commission and the commission determines it necessary, submit a  
27 request to the department to engage the services of private

1 consultants or request the department to contract with any private  
2 organization for professional and technical assistance and advice  
3 or other services to assist the commission in carrying out its  
4 duties and functions under this part.

5 (o) Within 6 months after the appointment and confirmation of  
6 the 6 additional commission members under section 22211, develop,  
7 approve, or revise certificate of need review standards governing  
8 the increase of licensed beds in a hospital licensed under part  
9 215, the physical relocation of hospital beds from 1 licensed site  
10 to another geographic location, and the replacement of beds in a  
11 hospital licensed under part 215.

12 (2) The commission shall exercise its duties under this part  
13 to promote and assure all of the following:

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

17 (b) Appropriate differential consideration of the health care  
18 needs of residents in rural counties in ways that do not compromise  
19 the quality and affordability of health care services for those  
20 residents.

21 (3) Not less than 30 days before final action is taken by the  
22 commission under subsection (1)(a), (b), (d), (h), or (o), the  
23 commission shall conduct a public hearing on its proposed action.  
24 In addition, not less than 30 days before final action is taken by  
25 the commission under subsection (1)(a), (b), (d), (h), or (o), the  
26 commission chairperson shall submit the proposed action and a  
27 concise summary of the expected impact of the proposed action for

1 comment to each member of the joint committee. The commission shall  
2 inform the joint committee of the date, time, and location of the  
3 next meeting regarding the proposed action. The joint committee  
4 shall promptly review the proposed action and submit its  
5 recommendations and concerns to the commission.

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

1           (5) The commission shall not develop, approve, or revise a  
 2 certificate of need review standard that requires the payment of  
 3 money or goods or the provision of services unrelated to the  
 4 proposed project as a condition that must be satisfied by a person  
 5 seeking a certificate of need for the initiation, replacement, or  
 6 expansion of covered clinical services, the acquisition or  
 7 beginning the operation of a health facility, making changes in bed  
 8 capacity, or making covered capital expenditures. This subsection  
 9 does not preclude a requirement that each applicant participate in  
 10 title XIX of the social security act, ~~chapter 531, 49 Stat. 620,~~  
 11 ~~1396r-6 and 1396r-8 to 1396v-42~~ **USC 1396 TO 1396W-5**, or a  
 12 requirement that each applicant provide covered clinical services  
 13 to all patients regardless of his or her ability to pay.

14 ~~—— (6) If the reports received under section 22221(f) indicate~~  
 15 ~~that the certificate of need application fees collected under~~  
 16 ~~section 20161 have not been within 10% of 3/4 the cost to the~~  
 17 ~~department of implementing this part, the commission shall make~~  
 18 ~~recommendations regarding the revision of those fees so that the~~  
 19 ~~certificate of need application fees collected equal approximately~~  
 20 ~~3/4 of the cost to the department of implementing this part.~~

21           (6) ~~(7)~~As used in this section, "joint committee" means the  
 22 joint committee created under section 22219.

23           Sec. 22219. (1) A joint legislative committee to focus on  
 24 proposed actions of the commission regarding the certificate of  
 25 need program and certificate of need standards and to review other  
 26 certificate of need issues is created. The joint committee shall  
 27 consist of 6 members as follows:

1 (a) The chairperson of the senate committee on health policy.

2 (b) The vice-chairperson of the senate committee on health  
3 policy.

4 (c) The minority vice-chairperson of the senate committee on  
5 health policy.

6 (d) The chairperson of the house of representatives committee  
7 on health policy.

8 (e) The vice-chairperson of the house of representatives  
9 committee on health policy.

10 (f) The minority vice-chairperson of the house of  
11 representatives committee on health policy.

12 (2) The joint committee shall be co-chaired by the chairperson  
13 of the senate committee on health policy and the chairperson of the  
14 house committee on health policy.

15 (3) The joint committee may administer oaths, subpoena  
16 witnesses, and examine the application, documentation, or other  
17 reports and papers of an applicant or any other person involved in  
18 a matter properly before the committee.

19 (4) The joint committee shall **MEET QUARTERLY TO** review the  
20 recommendations made by the commission ~~under section 22215(6)~~  
21 regarding the revision of the certificate of need application fees  
22 and submit a written report to the legislature outlining the costs  
23 to the department to implement the program, the amount of fees  
24 collected, and its recommendation regarding the revision of those  
25 fees.

26 (5) The joint committee may develop a plan for the revision of  
27 the certificate of need program. If a plan is developed by the

1 joint committee, the joint committee shall recommend to the  
2 legislature the appropriate statutory changes to implement the  
3 plan.

4 Enacting section 1. Section 22226 of the public health code,  
5 1978 PA 368, MCL 333.22226, is repealed.