



**House
Legislative
Analysis
Section**

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REPEAL CERTIFICATE OF NEED PROGRAM

House Bills 5141-5147
Sponsor: Rep. John Jamian
Committee: Health Policy

Complete to 10-18-95

A SUMMARY OF HOUSE BILLS 5141-5147 AS INTRODUCED 9-26-95

The package of seven bills would repeal language creating and enabling the state's certificate of need program (CON), and would delete references to CON in other health-related legislation. Specifically, the bills would do the following:

House Bill 5147 would amend the Public Health Code to repeal sections of the act pertaining to the establishment and requirements of the certificate of need program (Part 222, MCL 333.22201-333.22260). Currently, a five-member certificate of need commission is created within the Michigan Department of Public Health (MDPH), with members appointed by the governor. Among its duties, the commission approves, disapproves, or revises certificate of need review standards and designation of covered services and medical equipment, and annually assesses the operations and effectiveness of the CON program. The department, among other things, administers and applies CON review standards, and, in conjunction with the Office of Health and Medical Affairs, develops rules and proposed CON review standards. Health facilities are required to obtain CON approval before acquiring or beginning a facility; changing the bed capacity of a health facility; initiating, replacing, or expanding a covered clinical service, such as cardiac services or organ transplantation; and for certain capital expenditures. A base application fee of \$750 is charged; for projects with capital expenditures of more than \$150,000, additional fees ranging from \$2,000 to \$3,500 are added to the base fee. The fees are deposited in the state treasury and credited to the general fund.

The bill would also repeal a section of the code that prohibits issuance of a license or certificate unless an applicant were in compliance with Part 222 of the code, and that requires licensees who were issued a CON to be in full compliance with it. By deleting CON language in a section pertaining to the temporary delicensure of hospital beds, the bill would require MDPH, at a hospital's request, to grant extensions for up to an additional five years. Further, CON approval would no longer be needed before a hospital transferred the delicensed beds to another site or facility.

In addition, the bill would delete references to CON throughout the act, including the following:

** In a section authorizing MDPH to form non-profit corporations with Michigan State University or other parties for the purpose of operating centers for rural health, the bill would delete a requirement to designate a CON ombudsman.

** In requirements for construction permits issued by the MDPH for certain projects of over \$1 million, the bill would delete all references to CON.

** All references to CON would be removed from a section pertaining to fees for licenses and certificates of need.

** Under the bill, failure to comply with a CON or failure to demonstrate a need for a health facility or agency would no longer constitute grounds for license or certification denial, limitation, suspension, or revocation.

House Bill 5141 would amend the Michigan Health Planning and Health Policy Development Act (MCL 325.2004) to delete a reference to a section pertaining to CON that had been previously repealed.

House Bill 5142. Under the Administrative Procedures Act, certain standards and services requiring CON approval are excluded from the definition of a "rule". The bill would amend the act (MCL 24.207 and 24.208) to delete the reference to CON and the requirement that those standards and services receiving CON approval be published in the *Michigan Register*. The bill would also amend language referencing various acts pertaining to game and fish to reflect the recent codification under the Natural Resources and Environmental Protection Act.

House Bill 5143 would delete a provision in the Mental Health Code (MCL 330.1137) that requires the Department of Mental Health to issue a provisional license to those operating psychiatric partial hospitalization programs under certificates of need.

House Bill 5144 would repeal a section of Public Act 47 of 1945 (MCL 331.8t) requiring a hospital authority to obtain a CON before expending funds or issuing bonds for hospital expansions or construction of new facilities.

House Bill 5145 would repeal a section of the Hospital Finance Authority Act (MCL 331.77) that provides certain exemptions for CON requirements involving refinancing plans.

House Bill 5146 would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1401 and 550.1414a) to remove references to CON as a requirement a) for participation and reimbursement status by a health care facility in a health care corporation, and b) for providers of adolescent substance abuse services contracting with a health care corporation.

Tie-bars. House Bills 5141-5146 are tie-barred to House Bill 5147.