## SUBSTITUTE FOR SENATE BILL NO. 671

A bill to amend 1978 PA 368, entitled "Public health code,"

by amending sections 22211 and 22215 (MCL 333.22211 and 333.22215), section 22211 as amended by 2014 PA 107 and section 22215 as amended by 2002 PA 619.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 22211. (1) The certificate of need commission is created in the department. The commission consists of 11 members appointed by the governor shall appoint members to the commission with the advice and consent of the senate. The governor shall not appoint more than 6 members from the same major political party and shall appoint 5 members from another major political party. The commission consists of the following 11-13 members:





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(a) Two individuals representing hospitals.

2 (b) One individual representing physicians licensed under part3 170 to engage in the practice of medicine.

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4 (c) One individual representing physicians licensed under part5 175 to engage in the practice of osteopathic medicine and surgery.

6 (d) One individual who is a physician licensed under part 1707 or 175 representing a school of medicine or osteopathic medicine.

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(e) One individual representing nursing homes.

9 (f) One individual representing nurses.

10 (g) One individual representing a company that is self-insured 11 for health coverage.

12 (h) One individual representing a company that is not self-13 insured for health coverage.

(i) One individual representing a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or a nonprofit mutual disability insurer into which a nonprofit health care corporation has merged as provided in section 5805(1) of the insurance code of 1956, 1956 PA 218, MCL 500.5805.

20 (j) One individual representing organized labor unions in this21 state.

(k) Two individuals representing the general public, 1 of whomis from a county with a population of less than 40,000.

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

28 (3) A member of the commission shall serve for a term of 329 years or until a successor is appointed. A vacancy on the



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commission shall must be filled for the remainder of the unexpired
 term in the same manner as the original appointment.

- **3** (4) Commission members are subject to the following:
- **4** (a) 1968 PA 317, MCL 15.321 to 15.330.
- 5 (b) 1973 PA 196, MCL 15.341 to 15.348.

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

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

9 or delete 1 or more of the covered clinical services listed in 10 section 22203. If the commission proposes to add to the covered 11 clinical services listed in section 22203, the commission shall 12 develop proposed review standards and make the review standards 13 available to the public not less than 30 days before conducting a 14 hearing under subsection (3).

15 (b) Develop, approve, disapprove, or revise certificate of 16 need review standards that establish for purposes of section 22225 17 the need, if any, for the initiation, replacement, or expansion of 18 covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or 19 20 making covered capital expenditures, including conditions, standards, assurances, or information that must be met, 21 22 demonstrated, or provided by a person who applies for a certificate 23 of need. A certificate of need review standard may also establish 24 ongoing quality assurance requirements including any or all of the 25 requirements specified in section 22225(2)(c). Except for nursing 26 home and hospital long-term care unit bed review standards, by 27 January 1, 2004, the commission shall revise all certificate of need review standards to must include a requirement that each 28 29 applicant participate in title XIX of the social security act,



1 chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.42 USC 1396
2 to 1396w-5.

3 (c) Direct the department to prepare and submit
4 recommendations regarding commission duties and functions that are
5 of interest to the commission including, but not limited to,
6 specific modifications of proposed actions considered under this
7 section.

8 (d) Approve, disapprove, or revise proposed criteria for9 determining health facility viability under section 22225.

10 (e) Annually assess the operations and effectiveness of the 11 certificate of need program based on periodic reports from the 12 department and other information available to the commission.

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

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

(h) Develop, approve, disapprove, or revise certificate of
need review standards governing the acquisition of new technology.
(i) In accordance with section 22255, approve, disapprove, or
revise proposed procedural rules for the certificate of need
program.

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



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(k) Consider the impact of a proposed restriction on the 1 2 acquisition of or availability of covered clinical services on the 3 quality, availability, and cost of health services in this state.

4 (1) If the commission determines it necessary, appoint standard 5 advisory committees to assist in the development of proposed certificate of need review standards. A standard advisory committee 6 7 shall complete its duties under this subdivision and submit its recommendations to the commission within 6 months unless a shorter 8 9 period of time is specified by the commission when the standard 10 advisory committee is appointed. An individual shall serve on no more than 2 standard advisory committees in any 2-year period. The 11 12 composition of a standard advisory committee shall must not include 13 a lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but 14 shall must include all of the following:

15 (i) Experts with professional competence in the subject matter of the proposed standard, who shall constitute a-at least 2/3 16 17 majority of the standard advisory committee.

18 (ii) Representatives At least 1 representative of health care 19 provider organizations concerned with licensed health facilities or 20 licensed health professions.

21 (iii) Representatives At least 1 representative of organizations 22 concerned with health care consumers, and or the purchasers and or 23 payers of health care services.

24 (m) In addition to subdivision (b), review and, if necessary, revise each set of certificate of need review standards at least 25 26 every 3 years.

27 (n) If a standard advisory committee is not appointed by the 28 commission and the commission determines it necessary, submit a 29 request to the department to engage the services of private



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consultants or request the department to contract with any private
 organization for professional and technical assistance and advice
 or other services to assist the commission in carrying out its
 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 part13 to promote and assure ensure 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.

(3) Not less than 30 days before final action is taken by the 21 22 commission under subsection (1)(a), (b), (d), or (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), or (h),  $\frac{\partial r}{\partial r}$ the commission chairperson shall submit the proposed action and a 26 27 concise summary of the expected impact of the proposed action for comment to each member of the joint committee. The commission shall 28 29 inform the joint committee of the date, time, and location of the



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next meeting regarding the proposed action. The joint committee
 shall promptly review the proposed action and submit its
 recommendations and concerns to the commission.

4 (4) The commission chairperson shall submit the proposed final 5 action including a concise summary of the expected impact of the 6 proposed final action to the governor and each member of the joint 7 committee. The governor or the legislature may disapprove the 8 proposed final action within 45 days after the date of submission. 9 If the proposed final action is not submitted on a legislative 10 session day, the 45 days commence on the first legislative session 11 day after the proposed final action is submitted. The 45 days shall 12 must include not less than 9 legislative session days. Legislative disapproval shall must be expressed by concurrent resolution which 13 14 shall must be adopted by each house of the legislature. The 15 concurrent resolution shall must state specific objections to the 16 proposed final action. A proposed final action by the commission 17 under subsection (1)(a), (b), (d), or (h) , or (o) is not effective if it has been disapproved under this subsection. If the proposed 18 19 final action is not disapproved under this subsection, it is 20 effective and binding on all persons affected by this part upon the expiration of the 45-day period or on a later date specified in the 21 proposed final action. As used in this subsection, "legislative 22 23 session day" means each day in which a quorum of either the house 24 of representatives or the senate, following a call to order, 25 officially convenes in Lansing to conduct legislative business.

(5) The commission shall not develop, approve, or revise a
certificate of need review standard that requires the payment of
money or goods or the provision of services unrelated to the
proposed project as a condition that must be satisfied by a person



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seeking a certificate of need for the initiation, replacement, or 1 2 expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed 3 capacity, or making covered capital expenditures. This subsection 4 5 does not preclude a requirement that each applicant participate in 6 title XIX of the social security act, chapter 531, 49 Stat. 620, 7 1396r-6 and 1396r-8 to 1396v, 42 USC 1396 to 1396w-5, or a 8 requirement that each applicant provide covered clinical services 9 to all patients regardless of his or her ability to pay.

10 (6) If the reports received under section 22221(f) indicate 11 that the certificate of need application fees collected under 12 section 20161 have not been within 10% of 3/4 the cost to the 13 department of implementing this part, the commission shall make 14 recommendations regarding the revision of those fees so that the 15 certificate of need application fees collected equal approximately 16 3/4 of the cost to the department of implementing this part.

17 (7) As used in this section, "joint committee" means the joint18 committee created under section 22219.



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