

SENATE BILL NO. 669

December 04, 2019, Introduced by Senator VANDERWALL and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20145, 22201, 22203, 22207, 22208, 22209, 22215, 22221, and 22227 (MCL 333.20145, 333.22201, 333.22203, 333.22207, 333.22208, 333.22209, 333.22215, 333.22221, and 333.22227), section 20145 as amended by 2015 PA 104, section 22201 as added by 1988 PA 332, sections 22203, 22207, 22209, 22215, and 22221 as amended by 2002 PA 619, section 22208 as amended by 2011

PA 51, and section 22227 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,
3 modernizations, or conversions of a health facility or agency with
4 a 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 under this subsection unless the
7 applicant holds a valid certificate of need if a certificate of
8 need is required for the project under part 222.

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

14 ~~(3) If a construction project requires a construction permit~~
15 ~~under subsection (1) or (2), but does not require a certificate of~~
16 ~~need under part 222, the department shall require the applicant to~~
17 ~~submit information considered necessary by the department to assure~~
18 ~~that the capital expenditure for the project is not a covered~~
19 ~~capital expenditure as defined in section 22203(9).~~

20 (3) ~~(4)~~ If a construction project requires a construction
21 permit under subsection (1), but does not require a certificate of
22 need under part 222, the department shall require the applicant to
23 submit information on a 1-page sheet, along with the application
24 for a construction permit, consisting of all of the following:

25 (a) A short description of the reason for the project and the
26 funding source.

27 (b) A contact person for further information, including

1 address and phone number.

2 (c) The estimated resulting increase or decrease in annual
3 operating costs.

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

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

6 **(4)** ~~(5)~~—The **department shall make the** information filed under
7 subsection ~~(4)~~ shall be made ~~(3)~~ publicly available ~~by the~~
8 ~~department~~ by the same methods used to make information about
9 certificate of need applications publicly available.

10 **(5)** ~~(6)~~—The review and approval of architectural plans and
11 narrative ~~shall~~ **must** require that the proposed construction project
12 is designed and constructed in accord with applicable statutory and
13 other regulatory requirements. In performing a construction permit
14 review for a health facility or agency under this section, the
15 department shall, at a minimum, apply the standards contained in
16 the document entitled "Minimum Design Standards for Health Care
17 Facilities in Michigan" published by the department and dated July
18 2007. The standards are incorporated by reference for purposes of
19 this subsection. The department may promulgate rules that are more
20 stringent than the standards if necessary to protect the public
21 health, safety, and welfare.

22 **(6)** ~~(7)~~—The department shall promulgate rules to further
23 prescribe the scope of construction projects and other alterations
24 subject to review under this section.

25 **(7)** ~~(8)~~—The department may waive the applicability of this
26 section to a construction project or alteration if the waiver will
27 not affect the public health, safety, and welfare.

28 **(8)** ~~(9)~~ ~~Upon~~ **On** request by the person initiating a
29 construction project, the department may review and issue a

1 construction permit to a construction project that is not subject
2 to subsection (1) or (2) if the department determines that the
3 review will promote the public health, safety, and welfare.

4 (9) ~~(10)~~—The department shall assess a fee for each review
5 conducted under this section. The fee is .5% of the first
6 \$1,000,000.00 of capital expenditure and .85% of any amount over
7 \$1,000,000.00 of capital expenditure, up to a maximum of
8 \$60,000.00.

9 (10) ~~(11)~~—As used in this section, "capital expenditure" means
10 that term as defined in section 22203(2), except that capital
11 expenditure does not include the cost of equipment that is not
12 fixed equipment.

13 Sec. 22201. (1) For purposes of this part, the words and
14 phrases defined in sections 22203 to ~~22207~~**22208** have the meanings
15 ascribed to them in those sections.

16 (2) In addition, article 1 contains general definitions and
17 principles of construction applicable to all articles in this code.

18 (3) The definitions in part 201 do not apply to this part.

19 Sec. 22203. (1) "Addition" means adding **to a health facility**
20 patient rooms, beds, and ancillary service areas, including, but
21 not limited to, procedure rooms or fixed equipment, surgical
22 operating rooms, therapy rooms or fixed equipment, or other
23 accommodations. ~~to a health facility.~~

24 (2) "Capital expenditure" means an expenditure for a single
25 project, including cost of construction, engineering, and equipment
26 that under generally accepted accounting principles is not properly
27 chargeable as an expense of operation. Capital expenditure includes
28 a lease or comparable arrangement by or on behalf of a health
29 facility to obtain a health facility, licensed part of a health

1 facility, or equipment for a health facility, if the actual
2 purchase of a health facility, licensed part of a health facility,
3 or equipment for a health facility would have been considered a
4 capital expenditure under this part. Capital expenditure includes
5 the cost of studies, surveys, designs, plans, working drawings,
6 specifications, and other activities essential to the acquisition,
7 improvement, expansion, addition, conversion, modernization, new
8 construction, or replacement of physical plant and equipment.

9 (3) "Certificate of need" means a certificate issued under
10 this part authorizing a new health facility, a change in bed
11 capacity, **or** the initiation, replacement, or expansion of a covered
12 clinical service. ~~, or a covered capital expenditure that is issued
13 in accordance with this part.~~

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

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

17 (a) An increase in licensed hospital beds.

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

20 (c) An increase in licensed psychiatric beds.

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

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

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

26 (7) "Clinical service area" means an area of a health
27 facility, including related corridors, equipment rooms, ancillary
28 service and support areas that house medical equipment, patient
29 rooms, patient beds, diagnostic, operating, therapy, or treatment

1 rooms or other accommodations related to the diagnosis, treatment,
 2 or rehabilitation of individuals receiving services from the health
 3 facility.

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

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

13 (9) ~~(10)~~ "Covered clinical service", except as modified by the
 14 commission under section 22215, means 1 or more of the following:

15 (a) Initiation or expansion of 1 or more of the following
 16 services:

17 (i) Neonatal intensive care services or special newborn nursing
 18 services.

19 (ii) Open heart surgery.

20 (iii) Extrarenal organ transplantation.

21 (b) Initiation, replacement, or expansion of 1 or more of the
 22 following services:

23 (i) Extracorporeal shock wave lithotripsy.

24 (ii) Megavoltage radiation therapy.

25 (iii) Positron emission tomography.

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

1 (v) Cardiac catheterization.

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

3 (vii) Fixed and mobile computerized tomography scanner
4 services.

5 (viii) Air ambulance services.

6 (c) Initiation or expansion of a specialized psychiatric
7 program for children and adolescent patients utilizing licensed
8 psychiatric beds.

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

12 (10) ~~(11)~~ "Fixed equipment" means equipment that is affixed to
13 and constitutes a structural component of a health facility,
14 including, but not limited to, mechanical or electrical systems,
15 elevators, generators, pumps, boilers, and refrigeration equipment.

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

19 (2) "Modernization" means an upgrading, alteration, or change
20 in function of a part or all of the physical plant of a health
21 facility. Modernization includes, but is not limited to, the
22 alteration, repair, remodeling, and renovation of an existing
23 building and initial fixed equipment and the replacement of
24 obsolete fixed equipment in an existing building. Modernization of
25 the physical plant does not include normal maintenance and
26 operational expenses.

27 (3) "New construction" means construction of a health facility
28 where a health facility does not exist or construction replacing or
29 expanding an existing health facility or a part of an existing

1 health facility.

2 (4) "Person" means ~~a person~~**that term** as defined in section
3 1106 ~~or~~**and includes** a governmental entity.

4 (5) "Planning area" means the area defined in a certificate of
5 need review standard for determining the need for, and the resource
6 allocation of, a specific health facility, service, or equipment.
7 Planning area includes, but is not limited to, ~~the~~**this** state, a
8 health facility service area, or a health service area or subarea
9 within ~~the~~**this** state.

10 (6) "Proposed project" means a proposal to acquire an existing
11 health facility or begin operation of a new health facility, make a
12 change in bed capacity, **or** initiate, replace, or expand a covered
13 clinical service. ~~, or make a covered capital expenditure.~~

14 (7) "Rural county" means a county not located in a
15 metropolitan statistical area or micropolitan statistical areas as
16 those terms are defined under the "standards for defining
17 metropolitan and micropolitan statistical areas" by the statistical
18 policy office of the ~~office of information and regulatory affairs~~
19 **Office of Information and Regulatory Affairs** of the United States
20 ~~office of management and budget,~~ **Office of Management and Budget,**
21 65 F.R. p. ~~FR 82227~~ **p 82238** (December 27, 2000).

22 (8) "Stipulation" means a requirement that is germane to the
23 proposed project and has been agreed to by an applicant as a
24 condition of certificate of need approval.

25 Sec. 22208. (1) "Title XVIII" means title XVIII of the social
26 security act, 42 USC 1395 to ~~1395kkk-1.~~**1395lll.**

27 (2) "Title XIX" means title XIX of the social security act,
28 ~~chapter 531, 49 Stat. 620,~~ 42 USC 1396 to 1396w-5.

29 Sec. 22209. (1) Except as otherwise provided in this part, a

1 person shall not do any of the following without first obtaining a
2 certificate of need:

3 (a) Acquire an existing health facility or begin operation of
4 a health facility at a site that is not currently licensed for that
5 type of health facility.

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

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

8 ~~(d) Make a covered capital expenditure.~~

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

11 (3) Subject to subsection (9) and if the relocation does not
12 result in an increase of licensed beds within that health service
13 area, a certificate of need is not required for any of the
14 following:

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

19 (b) Subject to subsections (7) and (8), the physical
20 relocation of licensed beds from a hospital licensed under part 215
21 to a freestanding surgical outpatient facility licensed under part
22 208 if that freestanding surgical outpatient facility satisfies
23 each of the following criteria on December 2, 2002:

24 (i) Is owned by, is under common control of, or has as a common
25 parent the hospital seeking to relocate its licensed beds.

26 (ii) Was licensed ~~prior to~~ **before** January 1, 2002.

27 (iii) Provides 24-hour emergency care services at that site.

28 (iv) Provides at least 4 different covered clinical services at
29 that site.

1 (c) Subject to subsections (7) and (8), the physical
 2 relocation of licensed beds from a hospital licensed under part 215
 3 to another hospital licensed under part 215 within the same health
 4 service area if the hospital receiving the licensed beds is owned
 5 by, is under common control of, or has as a common parent the
 6 hospital seeking to relocate its licensed beds.

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

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

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

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

25 (i) Education.

26 (ii) Patient care.

27 (iii) Research.

28 (iv) Training.

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

1 services in a federal ~~veterans~~**veterans'** health care facility or
2 uses long-term care unit beds or acute care beds located in a
3 federal ~~veterans~~**veterans'** health care facility under subsection
4 (4) may not utilize procedures performed at the federal ~~veterans~~
5 **veterans'** health care facility to demonstrate need or to satisfy a
6 certificate of need review standard unless the covered clinical
7 service provided at the federal ~~veterans~~**veterans'** health care
8 facility was provided under a 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 to
11 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~~ **March 31,**
26 **2003**, if the hospital seeking to relocate its licensed beds or
27 another hospital owned by, under common control of, or having as a
28 common parent the hospital seeking to relocate its licensed beds is
29 located in a city that has a population of ~~750,000~~**600,000** or more.

1 (8) The licensed beds relocated under subsection (3) (b) or (c)
2 ~~shall~~**must** not be included as new beds in a hospital or as a new
3 hospital under the certificate of need review standards for
4 hospital beds. One of every 2 beds transferred under subsection
5 (3) (b) up to a maximum of 100 ~~shall~~**must** be beds that were staffed
6 and available for patient care as of December 2, 2002. A hospital
7 relocating beds under subsection (3) (b) shall not reactivate
8 licensed beds within that hospital that were unstaffed or
9 unavailable for patient care on December 2, 2002 for a period of 5
10 years after the date of the relocation of the licensed beds under
11 subsection (3) (b).

12 (9) ~~No licensed~~**Licensed** beds ~~shall~~**must not** be physically
13 relocated under subsection (3) if 7 or more members of the
14 commission, after the appointment and confirmation of the 6
15 additional commission members under section 22211 but before June
16 15, 2003, determine that relocation of licensed beds under
17 subsection (3) may cause great harm and detriment to the access and
18 delivery of health care to the public and the relocation of beds
19 should not occur without a certificate of need.

20 (10) An applicant seeking a certificate of need for the
21 acquisition of an existing health facility may file a single,
22 consolidated application for the certificate of need if the project
23 results in the acquisition of an existing health facility but does
24 not result in an increase or relocation of licensed beds or the
25 initiation, expansion, or replacement of a covered clinical
26 service. Except as otherwise provided in this subsection, a person
27 acquiring an existing health facility is subject to the applicable
28 certificate of need review standards in effect on the date of the
29 transfer for the covered clinical services provided by the acquired

1 health facility. The department may except 1 or more of the covered
 2 clinical services listed in section ~~22203(10)(b)~~, **22203(9)(b)** ,
 3 except the covered clinical service listed in section
 4 ~~22203(10)(b)(iv)~~, **22203(9)(b)(iv)** , from the minimum volume
 5 requirements in the applicable certificate of need review standards
 6 in effect on the date of the transfer, if the equipment used in the
 7 covered clinical service is unable to meet the minimum volume
 8 requirements due to the technological incapacity of the equipment.
 9 A covered clinical service excepted by the department under this
 10 subsection is subject to all the other provisions in the applicable
 11 certificate of need review standards in effect on the date of the
 12 transfer, except minimum volume requirements.

13 (11) An applicant seeking a certificate of need for the
 14 relocation or replacement of an existing health facility may file a
 15 single, consolidated application for the certificate of need if the
 16 project does not result in an increase of licensed beds or the
 17 initiation, expansion, or replacement of a covered clinical
 18 service. A person relocating or replacing an existing health
 19 facility is subject to the applicable certificate of need review
 20 standards in effect on the date of the relocation or replacement of
 21 the health facility.

22 (12) As used in this section, "sharing agreement" means a
 23 written agreement between a federal ~~veterans~~**veterans'** health care
 24 facility and a hospital licensed under part 215 for the use of the
 25 federal ~~veterans~~**veterans'** health care facility's beds or
 26 equipment, or both, to provide covered clinical services.

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

28 (a) If determined necessary by the commission, revise, add to,
 29 or delete 1 or more of the covered clinical services listed in

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

6 (b) Develop, approve, disapprove, or revise certificate of
7 need review standards that establish for purposes of section 22225
8 the need, if any, for the initiation, replacement, or expansion of
9 covered clinical services, the acquisition or beginning the
10 operation of a health facility, **or** making changes in bed capacity,
11 ~~or making covered capital expenditures, including conditions,~~
12 standards, assurances, or information that must be met,
13 demonstrated, or provided by a person who applies for a certificate
14 of need. A certificate of need review standard may also establish
15 ongoing quality assurance requirements including any or all of the
16 requirements specified in section 22225(2)(c). Except for nursing
17 home and hospital long-term care unit bed review standards, by
18 January 1, 2004, the commission shall revise all certificate of
19 need review standards to include a requirement that each applicant
20 participate in title XIX. ~~of the social security act, chapter 531,~~
21 ~~49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.~~

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

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

29 (e) Annually assess the operations and effectiveness of the

1 certificate of need program based on periodic reports from the
2 department and other information available to the commission.

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

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

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

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

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

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

23 (l) If the commission determines it necessary, appoint standard
24 advisory committees to assist in the development of proposed
25 certificate of need review standards. A standard advisory committee
26 shall complete its duties under this subdivision and submit its
27 recommendations to the commission within 6 months unless a shorter
28 period of time is specified by the commission when the standard
29 advisory committee is appointed. An individual shall serve on no

1 more than 2 standard advisory committees in any 2-year period. The
2 composition of a standard advisory committee shall not include a
3 lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but
4 shall include all of the following:

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

8 (ii) Representatives of health care provider organizations
9 concerned with licensed health facilities or licensed health
10 professions.

11 (iii) Representatives of organizations concerned with health
12 care consumers and the purchasers and payers of health care
13 services.

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

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

24 ~~(o) Within 6 months after the appointment and confirmation of~~
25 ~~the 6 additional commission members under section 22211, develop,~~
26 ~~approve, or revise certificate of need review standards governing~~
27 ~~the increase of licensed beds in a hospital licensed under part~~
28 ~~215, the physical relocation of hospital beds from 1 licensed site~~
29 ~~to another geographic location, and the replacement of beds in a~~

1 ~~hospital licensed under part 215.~~

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

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

7 (b) Appropriate differential consideration of the health care
8 needs of residents in rural counties in ways that do not compromise
9 the quality and affordability of health care services for those
10 residents.

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

23 (4) The commission chairperson shall submit the proposed final
24 action including a concise summary of the expected impact of the
25 proposed final action to the governor and each member of the joint
26 committee. The governor or the legislature may disapprove the
27 proposed final action within 45 days after the date of submission.
28 If the proposed final action is not submitted on a legislative
29 session day, the 45 days commence on the first legislative session

1 day after the proposed final action is submitted. The 45 days ~~shall~~
 2 **must** include not less than 9 legislative session days. Legislative
 3 disapproval ~~shall~~**must** be expressed by concurrent resolution which
 4 shall be adopted by each house of the legislature. The concurrent
 5 resolution ~~shall~~**must** state specific objections to the proposed
 6 final action. A proposed final action by the commission under
 7 subsection (1) (a), (b), (d), **or** (h) ~~, or (e)~~ is not effective if it
 8 has been disapproved under this subsection. If the proposed final
 9 action is not disapproved under this subsection, it is effective
 10 and binding on all persons affected by this part upon the
 11 expiration of the 45-day period or on a later date specified in the
 12 proposed final action. As used in this subsection, "legislative
 13 session day" means each day in which a quorum of either the house
 14 of representatives or the senate, following a call to order,
 15 officially convenes in Lansing to conduct legislative business.

16 (5) The commission shall not develop, approve, or revise a
 17 certificate of need review standard that requires the payment of
 18 money or goods or the provision of services unrelated to the
 19 proposed project as a condition that must be satisfied by a person
 20 seeking a certificate of need for the initiation, replacement, or
 21 expansion of covered clinical services, the acquisition or
 22 beginning the operation of a health facility, **or** making changes in
 23 bed capacity. ~~, or making covered capital expenditures.~~ This
 24 subsection does not preclude a requirement that each applicant
 25 participate in title XIX, ~~of the social security act, chapter 531,~~
 26 ~~49 Stat. 620, 1396r-6 and 1396r-8 to 1396v,~~ or a requirement that
 27 each applicant provide covered clinical services to all patients
 28 regardless of his or her ability to pay.

29 (6) If the reports received under section 22221(f) indicate

1 that the certificate of need application fees collected under
 2 section 20161 have not been within 10% of 3/4 the cost to the
 3 department of implementing this part, the commission shall make
 4 recommendations regarding the revision of those fees so that the
 5 certificate of need application fees collected equal approximately
 6 3/4 of the cost to the department of implementing this part.

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

9 Sec. 22221. The department shall do all of the following:

10 (a) Subject to approval by the commission, promulgate rules to
 11 implement its powers and duties under this part.

12 (b) Report to the commission at least annually on the
 13 performance of the department's duties under this part.

14 (c) Develop proposed certificate of need review standards for
 15 submission to the commission.

16 (d) Administer and apply certificate of need review standards.
 17 In the review of certificate of need applications, the department
 18 shall consider relevant written communications from any person.

19 (e) Designate adequate staff or other resources to directly
 20 assist hospitals and nursing homes with less than 100 beds in the
 21 preparation of applications for certificates of need.

22 (f) By October 1 ~~, 2003, and annually thereafter,~~ **of each**
 23 **year,** report to the commission regarding the costs to the
 24 department of implementing this part and the certificate of need
 25 application fees collected under section 20161 in the immediately
 26 preceding state fiscal year.

27 ~~(g) Beginning January 1, 2003, annually adjust the~~
 28 ~~\$2,500,000.00 threshold set forth in section 22203(9) by an amount~~
 29 ~~determined by the state treasurer to reflect the annual percentage~~

1 ~~change in the consumer price index, using data from the immediately~~
 2 ~~preceding period of July 1 to June 30. As used in this subdivision,~~
 3 ~~"consumer price index" means the most comprehensive index of~~
 4 ~~consumer prices available for this state from the bureau of labor~~
 5 ~~statistics of the United States department of labor.~~

6 (g) ~~(h)~~ Annually review the application process, including all
 7 forms, reports, and other materials that are required to be
 8 submitted with the application. If needed to promote administrative
 9 efficiency, revise the forms, reports, and any other materials
 10 required with the application.

11 (h) ~~(i)~~ ~~Within 6 months after the effective date of the~~
 12 ~~amendatory act that added this subdivision,~~ **By September 31, 2003,**
 13 create a consolidated application for a certificate of need for the
 14 relocation or replacement of an existing health facility.

15 (i) ~~(j)~~ In consultation with the commission, define single
 16 project as it applies to capital expenditures.

17 Sec. 22227. (1) A health maintenance organization is required
 18 to obtain a certificate of need only for ~~1 or more of the following~~
 19 ~~purposes:~~

20 ~~(a) The acquisition of, purchase of, new construction of,~~
 21 ~~modernization of, replacement of, or addition to a hospital or~~
 22 ~~other health facility providing inpatient services, if a covered~~
 23 ~~capital expenditure is required.~~

24 ~~(b) The~~ **the** initiation, replacement, or expansion of a covered
 25 clinical service.

26 ~~(2) A covered capital expenditure proposed to be undertaken by~~
 27 ~~a health maintenance organization that is not intended principally~~
 28 ~~to serve the needs of the enrollees of the health maintenance~~
 29 ~~organization, as determined by the department, is subject to this~~

1 ~~part.~~

2 (2) ~~(3)~~—In making determinations and conducting reviews for
3 certificates of need for health maintenance organizations, the
4 department shall consider the special needs and circumstances of
5 health maintenance organizations, and shall apply all of the
6 following criteria:

7 (a) The availability of the proposed service from a provider
8 of health care other than the health maintenance organization on a
9 long-term basis, at reasonable terms, and in a cost-effective
10 manner consistent with the health maintenance organization's basic
11 method of operation.

12 (b) The long-term needs of the health maintenance
13 organization, and its current and expected future membership.

14 (c) The long-term impact of the proposed service on health
15 care costs in the health maintenance organization's service area.