

# HOUSE BILL No. 5970

April 25, 2006, Introduced by Reps. Van Regenmorter, Gosselin and Taub and referred to the Committee on Judiciary.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending section 7 (MCL 24.207), as amended by 2000 PA 216.

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

1       Sec. 7. "Rule" means an agency regulation, statement,  
2 standard, policy, ruling, or instruction of general applicability  
3 that implements or applies law enforced or administered by the  
4 agency, or that prescribes the organization, procedure, or practice  
5 of the agency, including the amendment, suspension, or rescission  
6 of the law enforced or administered by the agency. Rule does not  
7 include any of the following:

- 8       (a) A resolution or order of the state administrative board.
- 9       (b) A formal opinion of the attorney general.

1 (c) A rule or order establishing or fixing rates or tariffs.

2 (d) A rule or order pertaining to game and fish and  
3 promulgated under parts 401, 411, and 487 of the natural resources  
4 and environmental protection act, 1994 PA 451, MCL 324.40101 to  
5 324.40119, 324.41101 to 324.41105, and 324.48701 to 324.48740.

6 (e) A rule relating to the use of streets or highways, the  
7 substance of which is indicated to the public by means of signs or  
8 signals.

9 (f) A determination, decision, or order in a contested case.

10 (g) An intergovernmental, interagency, or intra-agency  
11 memorandum, directive, or communication that does not affect the  
12 rights of, or procedures and practices available to, the public.

13 (h) A form with instructions, an interpretive statement, a  
14 guideline, **A POLICY DIRECTIVE**, an informational pamphlet, or other  
15 material that in itself does not have the force and effect of law  
16 but is merely explanatory.

17 (i) A declaratory ruling or other disposition of a particular  
18 matter as applied to a specific set of facts involved.

19 (j) A decision by an agency to exercise or not to exercise a  
20 permissive statutory power, although private rights or interests  
21 are affected.

22 ~~—— (k) Unless another statute requires a rule to be promulgated~~  
23 ~~under this act, a rule or policy that only concerns the inmates of~~  
24 ~~a state correctional facility and does not directly affect other~~  
25 ~~members of the public, except that a rule that only concerns~~  
26 ~~inmates which was promulgated before December 4, 1986, shall be~~  
27 ~~considered a rule and shall remain in effect until rescinded but~~

1 ~~shall not be amended. As used in this subdivision, "state~~  
 2 ~~correctional facility" means a facility or institution that houses~~  
 3 ~~an inmate population under the jurisdiction of the department of~~  
 4 ~~corrections.~~

5       **(K)** ~~-(l)-~~ A rule establishing special local watercraft controls  
 6 promulgated under former 1967 PA 303. A rule described in this  
 7 subdivision may be rescinded as provided in section 80113(2) of the  
 8 natural resources and environmental protection act, 1994 PA 451,  
 9 MCL 324.80113.

10       **(l)** ~~-(m)-~~ All of the following, after final approval by the  
 11 certificate of need commission ~~or the statewide health~~  
 12 ~~coordinating council~~ under section 22215 ~~or 22217~~ of the public  
 13 health code, 1978 PA 368, MCL 333.22215: ~~and 333.22217:~~

14       (i) The designation, deletion, or revision of covered medical  
 15 equipment and covered clinical services.

16       (ii) Certificate of need review standards.

17       (iii) Data reporting requirements and criteria for determining  
 18 health facility viability.

19       (iv) Standards used by the department of community health in  
 20 designating a regional certificate of need review agency.

21       (v) The modification of the 100 licensed bed limitation for  
 22 short-term nursing care programs set forth in section 22210 of the  
 23 public health code, 1978 PA 368, MCL 333.22210.

24       **(M)** ~~-(n)-~~ A policy developed by the family independence agency  
 25 under section 6(3) of the social welfare act, 1939 PA ~~250~~ **280**,  
 26 MCL 400.6, setting income and asset limits, types of income and  
 27 assets to be considered for eligibility, and payment standards for

1 administration of assistance programs under that act.

2 (N) ~~(e)~~ A policy developed by the family independence agency  
3 under section 6(4) of the social welfare act, 1939 PA 280, MCL  
4 400.6, to implement requirements that are mandated by federal  
5 statute or regulations as a condition of receipt of federal funds.

6 (O) ~~(p)~~ The provisions of an agency's contract with a public  
7 or private entity including, but not limited to, the provisions of  
8 an agency's standard form contract.

9 (P) ~~(q)~~ A policy developed by the department of community  
10 health under the authority granted in section 111a of the social  
11 welfare act, 1939 PA 280, MCL 400.111a, to implement policies and  
12 procedures necessary to operate its health care programs in  
13 accordance with an approved state plan or in compliance with state  
14 statute.