

SENATE BILL NO. 670

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 section 22209 (MCL 333.22209), as amended by 2002 PA
619.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

6 (d) Make a covered capital expenditure.

7 (2) A certificate of need is not required for ~~a~~**any of the**
 8 **following:**

9 (a) **A** reduction in licensed bed capacity or services at a
 10 licensed site.

11 (b) **A health facility required to be licensed under part 215**
 12 **as a hospital if the health facility is designated and certified as**
 13 **a critical access hospital under 42 CFR 485.606 and is located**
 14 **outside of a 35-mile radius of another hospital. A health facility**
 15 **that meets the requirements described in this subdivision shall**
 16 **provide notice to the department if the health facility initiates,**
 17 **replaces, or expands a covered clinical service listed in section**
 18 **22203(10).**

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

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

27 (b) Subject to subsections (7) and (8), the physical
 28 relocation of licensed beds from a hospital licensed under part 215
 29 to a freestanding surgical outpatient facility licensed under part

1 208 if that freestanding surgical outpatient facility satisfies
 2 each of the following criteria on December 2, 2002:

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

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

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

7 (iv) Provides at least 4 different covered clinical services at
 8 that site.

9 (c) Subject to subsections (7) and (8), the physical
 10 relocation of licensed beds from a hospital licensed under part 215
 11 to another hospital licensed under part 215 within the same health
 12 service area if the hospital receiving the licensed beds is owned
 13 by, is under common control of, or has as a common parent the
 14 hospital seeking to relocate its licensed beds.

15 (4) Subject to subsection (5), a hospital licensed under part
 16 215 is not required to obtain a certificate of need to provide 1 or
 17 more of the covered clinical services listed in section 22203(10)
 18 in a federal ~~veterans~~ **veterans'** health care facility or to use
 19 long-term care unit beds or acute care beds that are owned and
 20 located in a federal ~~veterans~~ **veterans'** health care facility if the
 21 hospital satisfies each of the following criteria:

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

24 (b) The hospital has physicians who have faculty appointments
 25 at the federal ~~veterans~~ **veterans'** health care facility or has an
 26 affiliation with a medical school that is affiliated with a federal
 27 ~~veterans~~ **veterans'** health care facility and has physicians who have
 28 faculty appointments at the federal ~~veterans~~ **veterans'** health care
 29 facility.

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

4 (i) Education.

5 (ii) Patient care.

6 (iii) Research.

7 (iv) Training.

8 (5) A hospital that provides 1 or more covered clinical
9 services in a federal ~~veterans~~**veterans'** health care facility or
10 uses long-term care unit beds or acute care beds located in a
11 federal ~~veterans~~**veterans'** health care facility under subsection
12 (4) may not utilize procedures performed at the federal ~~veterans~~
13 **veterans'** health care facility to demonstrate need or to satisfy a
14 certificate of need review standard unless the covered clinical
15 service provided at the federal ~~veterans~~**veterans'** health care
16 facility was provided under a certificate of need.

17 (6) If a hospital licensed under part 215 had fewer than 70
18 licensed beds on December 1, 2002, that hospital is not required to
19 satisfy the minimum volume requirements under the certificate of
20 need review standards for its existing operating rooms as long as
21 those operating rooms continue to exist at that licensed hospital
22 site.

23 (7) Before relocating beds under subsection (3)(b), the
24 hospital seeking to relocate its beds shall provide the information
25 requested by the department of ~~consumer and industry services~~
26 **licensing and regulatory affairs** that will allow the department of
27 ~~consumer and industry services~~**licensing and regulatory affairs** to
28 verify the number of licensed beds that were staffed and available
29 for patient care at that hospital as of December 2, 2002. A

1 hospital shall transfer no more than 35% of its licensed beds to
 2 another hospital or freestanding surgical outpatient facility under
 3 subsection (3) (b) or (c) not more than 1 time after ~~the effective~~
 4 ~~date of the amendatory act that added this subsection~~ **March 31,**
 5 **2003** if the hospital seeking to relocate its licensed beds or
 6 another hospital owned by, under common control of, or having as a
 7 common parent the hospital seeking to relocate its licensed beds is
 8 located in a city that has a population of ~~750,000~~ **600,000** or more.

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

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

28 (10) An applicant seeking a certificate of need for the
 29 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 (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
28 standards in effect on the date of the relocation or replacement of
29 the health facility.

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