333.20144 Licensing on basis of approved building program.

Sec. 20144. A health facility or agency not meeting statutory and regulatory requirements for its physical plant and equipment may be licensed by the department on the basis of a building program approved by the department which:

(a) Sets forth a plan and timetable for correction of physical plant or equipment deficiencies and items of noncompliance.
(b) Includes documented evidence of the availability and commitment of money for carrying out the approved building program.
(c) Includes other documentation the department reasonably requires to assure compliance with the plan and timetable.


Popular name: Act 368

333.20145 Construction permit; certificate of need as condition of issuance; rules; information required for project not requiring certificate of need; review and approval of architectural plans and narrative; rules; waiver; fee; "capital expenditure" defined.

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency with a capital expenditure of $1,000,000.00 or more, a person shall obtain a construction permit from the department. The department shall not issue the permit under this subsection unless the applicant holds a valid certificate of need if a certificate of need is required for the project pursuant to part 222.

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

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

(4) If a construction project requires a construction permit under subsection (1), but does not require a certificate of need under part 222, the department shall require the applicant to submit information on a 1-page sheet, along with the application for a construction permit, consisting of all of the following:
(a) A short description of the reason for the project and the funding source.
(b) A contact person for further information, including address and phone number.
(c) The estimated resulting increase or decrease in annual operating costs.
(d) The current governing board membership of the applicant.
(e) The entity, if any, that owns the applicant.
(5) The information filed under subsection (4) shall be made publicly available by the department by the same methods used to make information about certificate of need applications publicly available.

(6) The review and approval of architectural plans and narrative shall require that the proposed construction project is designed and constructed in accord with applicable statutory and other regulatory requirements. In performing a construction permit review for a health facility or agency under this section, the department shall, at a minimum, apply the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department and dated March 1998. The standards are incorporated by reference for purposes of this subsection. The department may promulgate rules that are more stringent than the standards if necessary to protect the public health, safety, and welfare.

(7) The department shall promulgate rules to further prescribe the scope of construction projects and other alterations subject to review under this section.

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

(9) Upon request by the person initiating a construction project, the department may review and issue a construction permit to a construction project that is not subject to subsection (1) or (2) if the department determines that the review will promote the public health, safety, and welfare.

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

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


Popular name: Act 368

333.20162 License; receipt of completed application; issuance of license within certain period of time; nonrenewable temporary permit; provisional license; procedure for closing facility; order to licensee upon finding of noncompliance; notice, hearing, and status requirements; report; "completed application" defined.

Sec. 20162. (1) Beginning on the effective date of the amendatory act that added section 20935, upon a determination that a health facility or agency is in compliance with this article and the rules promulgated under this article, the department shall issue an initial license within 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make the notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

(a) Upon notification by the department of a deficiency, until the date the requested information is received by the department.
(b) Upon notification by the department that a corrective action plan is required, until the date the
department determines the requirements of the corrective action plan have been met.

(2) The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(3) Except as otherwise provided in this subsection, if the department fails to issue or deny a license within the time period required by this section, the department shall return the license fee and shall reduce the license fee for the applicant’s next licensure application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay processing an application. The completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the application fee was refunded or discounted under this subsection. The department may issue a nonrenewable temporary permit for not more than 6 months if additional time is needed to make a proper investigation or to permit the applicant to undertake remedial action related to operational or procedural deficiencies or items of noncompliance. A temporary permit shall not be issued to cover deficiencies in physical plant requirements.

(4) Except as provided in part 217, the department may issue a provisional license for not more than 3 consecutive years to an applicant who temporarily is unable to comply with the rules as to the physical plant owned, maintained, or operated by a health facility or agency except as otherwise provided in this article. A provisional license shall not be issued to a new health facility or agency or a facility or agency whose ownership is transferred after September 30, 1978, unless the facility or agency was licensed and operating under this article or a prior law for not less than 5 years. Provisional licensure under acts repealed by this code shall be counted against the 3-year maximum for licensure.

(5) The department, in order to protect the people of this state, shall provide a procedure for the orderly closing of a facility if it is unable to maintain its license under this section.

(6) Except as provided in part 217, the department, upon finding that a health facility or agency is not operating in accord with the requirements of its license, may:

(a) Issue an order directing the licensee to:
   (i) Discontinue admissions.
   (ii) Transfer selected patients out of the facility.
   (iii) Reduce its licensed capacity.
   (iv) Comply with specific requirements for licensure or certification as appropriate.

(b) Through the office of the attorney general, initiate misdemeanor proceedings against the licensee as provided in section 20199(1).

(7) An order issued under subsection (6) shall be governed by the notice and hearing requirements of section 20168(1) and the status requirements of section 20168(2).

(8) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with public health issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial applications the department received and completed within the 6-month time period required under subsection (1).

(b) The number of applications requiring a request for additional information.

(c) The number of applications denied.
(d) The average processing time for initial licenses granted after the 6-month period.
(e) The number of temporary permits issued under subsection (3).
(f) The number of initial license applications not issued within the 6-month period and the amount of money returned to applicants under subsection (3).

(9) As used in this section, “completed application” means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.


333.21757 Provisional license.

Sec. 21757. (1) The department may issue a 1-year provisional license, renewable for not more than 1 additional year, to an applicant whose services are needed in the community but who is temporarily unable to comply with the rules related to the physical plant of the facilities, excluding maintenance problems. At the time a provisional license is granted, specific deadlines for the correction of each physical plant violation shall be established.

(2) A provisional license shall not be issued for a nursing home constructed, established, or changing corporate ownership or management after the effective date of this section unless it is shown that unusual hardship would result to the public or to the applicant for the provisional license and the nursing home was licensed and operating under a prior licensing act for not less than 5 years.

History: Add. 1978, Act 493,

333.21711 License required; prohibited terms or abbreviations; license for formal or informal nursing care services; exception.

Sec. 21711. (1) A nursing home shall be licensed under this article.

(2) “Nursing home”, “nursing center”, “convalescent center”, “extended care facility”, or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless the health facility or agency is licensed as a nursing home by the department under this article.

(3) A person shall not purport to provide formal or informal nursing care services of the kind normally provided in a nursing home without obtaining a license as provided in this article. This subsection does not apply to a hospital or a facility created by Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws.


333.21717 Individuals excluded from nursing home; exception; approval of area and program.

Sec. 21717. An individual shall not be admitted or retained for care in a nursing home who requires special medical or surgical treatment, or treatment for acute mental illness, mental retardation, communicable tuberculosis, or a communicable disease, unless the home is able to provide an area and a program for the care. The department shall approve both the area and the program, except
for the programs providing treatment for mental illness and mental retardation which shall be
approved by the department of mental health.


Popular name: Act 368

333.21718 Conditions of skilled nursing facility certification and participation in title 19
program; exception; exemption.

Sec. 21718. (1) Except as provided in subsections (3) and (4), as a condition of skilled
nursing facility certification and participation in the title 19 program of the social security act, 42 U.S.C.
1396 to 1396k, a nursing home shall be concurrently certified for and give evidence of active
participation in the title 18 program of the social security act, 42 U.S.C. 1395 to 1395qq. A nursing
facility that is not concurrently certified for the title 18 program on the effective date of this section
shall make application for concurrent certification not later than its next application for licensure
and certification. A failure to make application shall result in the skilled nursing facility being
decertified or refused certification as a provider in the title 19 program. Nursing home or nursing
care facility participation in the title 18 program under the requirements for concurrent
certification shall be effective not later than the beginning of the first accounting year following the
home's or facility's title 18 certification.

(2) As a condition of skilled nursing facility certification, a nursing home shall obtain concurrent
certification under title 19 of the social security act, 42 U.S.C. 1396 to 1396k, for each bed which is
certified to provide skilled care under title 18 of the social security act, 42 U.S.C. 1395 to 1395qq.
Skilled care certification shall not be renewed unless the requirements of this subsection are met.

(3) An exception may be made from the requirements of subsection (1) for a nursing facility that is
currently certified as a skilled nursing facility by the director for title 19 participation but has been
determined, after making application, to be ineligible for title 18 certification by the secretary of the
United States department of health, education, and welfare.

(4) A home or facility, or a distinct part of a home or facility, certified by the director as a special
mental retardation or special mental illness nursing home or nursing care facility shall be exempt
from the requirements of subsection (1).


Popular name:

R 325.20213 Construction and major alterations of nursing homes.

Rule 213. (1) A home shall not contract for or initiate either of the following projects without first
obtaining a construction permit from the department: (a) A project for which a construction permit
is required by section 20145 of the code.

(b) A project to expand or change service areas for services provided which involves major
alterations.

(2) The owner or governing body of a home or proposed home shall submit plans for projects
described in subrule (1) of this rule to the department for review and approval before contracting
for and initiating such projects. The department shall approve the plans if it determines that the
project is designed and constructed in accord with applicable statutory and regulatory
requirements.
(3) A major alteration is deemed to be any extensive structural alteration of an existing building area involving significant changes in the interior configurations or intended use by the moving of partitions of a number of rooms and involving an expenditure in an amount in excess of $25,000.00. Removal of a partition between 2 adjacent rooms to provide additional room space is not deemed to be a major alteration, unless it exceeds $25,000.00 in cost or unless multiple changes are to be made for a changed use of an entire wing or area and extensive plumbing or electrical wiring changes are required. (4) The department may waive the applicability of this rule if it determines the waiver will not affect the public health, safety, and welfare.