

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 576

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 20145 and 20161 (MCL 333.20145 and  
333.20161), section 20145 as amended by 2002 PA 683 and section  
20161 as amended by 2004 PA 393.

**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  
4 with a capital expenditure of \$1,000,000.00 or more, a person  
5 shall obtain a construction permit from the department. The  
6 department shall not issue the permit under this subsection  
7 unless the applicant holds a valid certificate of need if a  
8 certificate of need is required for the project pursuant to  
9 part 222.

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

6           (3) If a construction project requires a construction permit  
7 under subsection (1) or (2), but does not require a certificate  
8 of need under part 222, the department shall require the  
9 applicant to submit information considered necessary by the  
10 department to assure that the capital expenditure for the project  
11 is not a covered capital expenditure as defined in section  
12 22203(9).

13           (4) If a construction project requires a construction permit  
14 under subsection (1), but does not require a certificate of need  
15 under part 222, the department shall require the applicant to  
16 submit information on a 1-page sheet, along with the application  
17 for a construction permit, consisting of all of the following:

18           (a) A short description of the reason for the project and the  
19 funding source.

20           (b) A contact person for further information, including  
21 address and phone number.

22           (c) The estimated resulting increase or decrease in annual  
23 operating costs.

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

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

26           (5) The information filed under subsection (4) shall be made  
27 publicly available by the department by the same methods used to

1 make information about certificate of need applications publicly  
2 available.

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

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

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

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

26       (10) The department shall assess a fee for each review  
27 conducted under this section. The fee is .5% of the first

1 \$1,000,000.00 of capital expenditure and .85% of any amount over  
2 \$1,000,000.00 of capital expenditure, up to a maximum of  
3 ~~\$30,000.00~~ \$60,000.00.

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

7 Sec. 20161. (1) The department shall assess fees and other  
8 assessments for health facility and agency licenses and  
9 certificates of need on an annual basis as provided in this  
10 article. Except as otherwise provided in this article, fees and  
11 assessments shall be paid in accordance with the following  
12 schedule:

- 13 (a) Freestanding surgical outpatient  
14 facilities..... \$238.00 per facility.
- 15 (b) Hospitals..... \$8.28 per licensed bed.
- 16 (c) Nursing homes, county medical care  
17 facilities, and hospital long-term care  
18 units..... \$2.20 per licensed bed.
- 19 (d) Homes for the aged..... \$6.27 per licensed bed.
- 20 (e) Clinical laboratories..... \$475.00 per laboratory.
- 21 (f) Hospice residences..... \$200.00 per license  
22 survey; and \$20.00 per  
23 licensed bed.
- 24 (g) Subject to subsection (13),  
25 quality assurance assessment for  
26 nongovernmentally owned nursing homes  
27 and hospital long-term care units..... an amount resulting in

1 not more than 6% of  
 2 total industry  
 3 revenues.  
 4 (h) Subject to subsection (14),  
 5 quality assurance assessment for  
 6 hospitals..... at a fixed or variable  
 7 rate that generates  
 8 funds not more than the  
 9 maximum allowable under  
 10 the federal matching  
 11 requirements, after  
 12 consideration for the  
 13 amounts in subsection  
 14 (14) (a) and (j).

15 (2) If a hospital requests the department to conduct a  
 16 certification survey for purposes of title XVIII or title XIX of  
 17 the social security act, the hospital shall pay a license fee  
 18 surcharge of \$23.00 per bed. As used in this subsection, "title  
 19 XVIII" and "title XIX" mean those terms as defined in section  
 20 20155.

21 (3) The base fee for a certificate of need is ~~-\$750.00~~  
 22 **\$1,500.00** for each application. For a project requiring a  
 23 projected capital expenditure of more than ~~-\$150,000.00~~  
 24 **\$500,000.00** but less than ~~-\$1,500,000.00~~ **\$4,000,000.00**, an  
 25 additional fee of ~~-\$2,000.00~~ **\$4,000.00** shall be added to the  
 26 base fee. For a project requiring a projected capital  
 27 expenditure of ~~-\$1,500,000.00~~ **\$4,000,000.00** or more, an

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1 additional fee of ~~-\$3,500.00-~~ **\$7,000.00** shall be added to the  
2 base fee. **[The department of community health shall use the fees  
collected under this subsection only to fund the certificate of need  
program. Funds remaining in the certificate of need program at the end  
of the fiscal year shall not lapse to the general fund but shall remain  
available to fund the certificate of need program in subsequent years.]**

3 (4) If licensure is for more than 1 year, the fees described  
4 in subsection (1) are multiplied by the number of years for which  
5 the license is issued, and the total amount of the fees shall be  
6 collected in the year in which the license is issued.

7 (5) Fees described in this section are payable to the  
8 department at the time an application for a license, permit, or  
9 certificate is submitted. If an application for a license,  
10 permit, or certificate is denied or if a license, permit, or  
11 certificate is revoked before its expiration date, the department  
12 shall not refund fees paid to the department.

13 (6) The fee for a provisional license or temporary permit is  
14 the same as for a license. A license may be issued at the  
15 expiration date of a temporary permit without an additional fee  
16 for the balance of the period for which the fee was paid if the  
17 requirements for licensure are met.

18 (7) The department may charge a fee to recover the cost of  
19 purchase or production and distribution of proficiency evaluation  
20 samples that are supplied to clinical laboratories pursuant to  
21 section 20521(3).

22 (8) In addition to the fees imposed under subsection (1), a  
23 clinical laboratory shall submit a fee of \$25.00 to the  
24 department for each reissuance during the licensure period of the  
25 clinical laboratory's license.

26 (9) ~~Except for the licensure of clinical laboratories, not~~  
27 ~~more than half the annual~~ **The** cost of licensure activities ~~as~~

1 ~~determined by the department~~ shall be ~~provided~~ **supported** by  
2 license fees.

3 (10) The application fee for a waiver under section 21564 is  
4 \$200.00 plus \$40.00 per hour for the professional services and  
5 travel expenses directly related to processing the application.  
6 The travel expenses shall be calculated in accordance with the  
7 state standardized travel regulations of the department of  
8 management and budget in effect at the time of the travel.

9 (11) An applicant for licensure or renewal of licensure under  
10 part 209 shall pay the applicable fees set forth in part 209.

11 (12) Except as otherwise provided in this section, the fees  
12 and assessments collected under this section shall be deposited  
13 in the state treasury, to the credit of the general fund.

14 (13) The quality assurance assessment collected under  
15 subsection (1)(g) and all federal matching funds attributed to  
16 that assessment shall be used only for the following purposes and  
17 under the following specific circumstances:

18 (a) The quality assurance assessment and all federal matching  
19 funds attributed to that assessment shall be used to finance  
20 medicaid nursing home reimbursement payments. Only licensed  
21 nursing homes and hospital long-term care units that are assessed  
22 the quality assurance assessment and participate in the medicaid  
23 program are eligible for increased per diem medicaid  
24 reimbursement rates under this subdivision.

25 (b) The quality assurance assessment shall be implemented on  
26 May 10, 2002.

27 (c) The quality assurance assessment is based on the number

1 of licensed nursing home beds and the number of licensed hospital  
2 long-term care unit beds in existence on July 1 of each year,  
3 shall be assessed upon implementation pursuant to subdivision (b)  
4 and subsequently on October 1 of each following year, and is  
5 payable on a quarterly basis, the first payment due 90 days after  
6 the date the assessment is assessed.

7 (d) Beginning October 1, 2007, the department shall no longer  
8 assess or collect the quality assurance assessment or apply for  
9 federal matching funds.

10 (e) Upon implementation pursuant to subdivision (b), the  
11 department of community health shall increase the per diem  
12 nursing home medicaid reimbursement rates for the balance of that  
13 year. For each subsequent year in which the quality assurance  
14 assessment is assessed and collected, the department of community  
15 health shall maintain the medicaid nursing home reimbursement  
16 payment increase financed by the quality assurance assessment.

17 (f) The department of community health shall implement this  
18 section in a manner that complies with federal requirements  
19 necessary to assure that the quality assurance assessment  
20 qualifies for federal matching funds.

21 (g) If a nursing home or a hospital long-term care unit fails  
22 to pay the assessment required by subsection (1)(g), the  
23 department of community health may assess the nursing home or  
24 hospital long-term care unit a penalty of 5% of the assessment  
25 for each month that the assessment and penalty are not paid up to  
26 a maximum of 50% of the assessment. The department of community  
27 health may also refer for collection to the department of



1 treasury past due amounts consistent with section 13 of 1941  
2 PA 122, MCL 205.13.

3 (h) The medicaid nursing home quality assurance assessment  
4 fund is established in the state treasury. The department of  
5 community health shall deposit the revenue raised through the  
6 quality assurance assessment with the state treasurer for deposit  
7 in the medicaid nursing home quality assurance assessment fund.

8 (i) The department of community health shall not implement  
9 this subsection in a manner that conflicts with 42 USC 1396b(w).

10 (j) The quality assurance assessment collected under  
11 subsection (1)(g) shall be prorated on a quarterly basis for any  
12 licensed beds added to or subtracted from a nursing home or  
13 hospital long-term care unit since the immediately preceding  
14 July 1. Any adjustments in payments are due on the next  
15 quarterly installment due date.

16 (k) In each fiscal year governed by this subsection, medicaid  
17 reimbursement rates shall not be reduced below the medicaid  
18 reimbursement rates in effect on April 1, 2002 as a direct result  
19 of the quality assurance assessment collected under  
20 subsection (1)(g).

21 (l) In fiscal year 2004-2005, \$21,900,000.00 of the quality  
22 assurance assessment collected pursuant to subsection (1)(g)  
23 shall be appropriated to the department of community health to  
24 support medicaid expenditures for long-term care services. These  
25 funds shall offset an identical amount of general fund/general  
26 purpose revenue originally appropriated for that purpose.

27 (14) The quality assurance dedication is an earmarked

1 assessment collected under subsection (1)(h). That assessment  
2 and all federal matching funds attributed to that assessment  
3 shall be used only for the following purposes and under the  
4 following specific circumstances:

5 (a) Part of the quality assurance assessment shall be used to  
6 maintain the increased medicaid reimbursement rate increases as  
7 provided for in subdivision (d). A portion of the funds  
8 collected from the quality assurance assessment may be used to  
9 offset any reduction to existing intergovernmental transfer  
10 programs with public hospitals that may result from  
11 implementation of the enhanced medicaid payments financed by the  
12 quality assurance assessment. Any portion of the funds collected  
13 from the quality assurance assessment reduced because of existing  
14 intergovernmental transfer programs shall be used to finance  
15 medicaid hospital appropriations.

16 (b) The quality assurance assessment shall be implemented on  
17 October 1, 2002.

18 (c) The quality assurance assessment shall be assessed on all  
19 net patient revenue, before deduction of expenses, less medicare  
20 net revenue, as reported in the most recently available medicare  
21 cost report and is payable on a quarterly basis, the first  
22 payment due 90 days after the date the assessment is assessed.  
23 As used in this subdivision, "medicare net revenue" includes  
24 medicare payments and amounts collected for coinsurance and  
25 deductibles.

26 (d) Upon implementation pursuant to subdivision (b), the  
27 department of community health shall increase the hospital

1 medicaid reimbursement rates for the balance of that year. For  
2 each subsequent year in which the quality assurance assessment is  
3 assessed and collected, the department of community health shall  
4 maintain the hospital medicaid reimbursement rate increase  
5 financed by the quality assurance assessments.

6 (e) The department of community health shall implement this  
7 section in a manner that complies with federal requirements  
8 necessary to assure that the quality assurance assessment  
9 qualifies for federal matching funds.

10 (f) If a hospital fails to pay the assessment required by  
11 subsection (1)(h), the department of community health may assess  
12 the hospital a penalty of 5% of the assessment for each month  
13 that the assessment and penalty are not paid up to a maximum of  
14 50% of the assessment. The department of community health may  
15 also refer for collection to the department of treasury past due  
16 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

17 (g) The hospital quality assurance assessment fund is  
18 established in the state treasury. The department of community  
19 health shall deposit the revenue raised through the quality  
20 assurance assessment with the state treasurer for deposit in the  
21 hospital quality assurance assessment fund.

22 (h) In each fiscal year governed by this subsection, the  
23 quality assurance assessment shall only be collected and expended  
24 if medicaid hospital inpatient DRG and outpatient reimbursement  
25 rates and disproportionate share hospital and graduate medical  
26 education payments are not below the level of rates and payments  
27 in effect on April 1, 2002 as a direct result of the quality

1 assurance assessment collected under subsection (1)(h), except as  
2 provided in subdivision (i).

3 (i) The quality assurance assessment collected under  
4 subsection (1)(h) shall no longer be assessed or collected after  
5 September 30, 2007, or in the event that the quality assurance  
6 assessment is not eligible for federal matching funds. Any  
7 portion of the quality assurance assessment collected from a  
8 hospital that is not eligible for federal matching funds shall be  
9 returned to the hospital.

10 (j) In fiscal year 2004-2005, \$18,900,000.00 of the quality  
11 assurance assessment collected pursuant to subsection (1)(h)  
12 shall be appropriated to the department of community health to  
13 support medicaid expenditures for hospital services and therapy.  
14 These funds shall offset an identical amount of general  
15 fund/general purpose revenue originally appropriated for that  
16 purpose.

17 (15) The quality assurance assessment provided for under this  
18 section is a tax that is levied on a health facility or agency.

19 (16) As used in this section, "medicaid" means that term as  
20 defined in section 22207.