

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4185**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20161 (MCL 333.20161), as amended by 2007 PA
5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20161. (1) The department shall assess fees and other
2 assessments for health facility and agency licenses and
3 certificates of need on an annual basis as provided in this
4 article. Except as otherwise provided in this article, fees and
5 assessments shall be paid in accordance with the following
6 schedule:

7 (a) Freestanding surgical

1 outpatient facilities.....\$238.00 per facility.
2 (b) Hospitals.....\$8.28 per licensed bed.
3 (c) Nursing homes, county
4 medical care facilities, and
5 hospital long-term care units.....\$2.20 per licensed bed.
6 (d) Homes for the aged.....\$6.27 per licensed bed.
7 (e) Clinical laboratories.....\$475.00 per laboratory.
8 (f) Hospice residences.....\$200.00 per license
9 survey; and \$20.00 per
10 licensed bed.
11 (g) Subject to subsection
12 (13), quality assurance assessment
13 for nursing homes and hospital
14 long-term care units.....an amount resulting
15 in not more than 6%
16 of total industry
17 revenues.
18 (h) Subject to subsection
19 (14), quality assurance assessment
20 for hospitals.....at a fixed or variable
21 rate that generates
22 funds not more than the
23 maximum allowable under
24 the federal matching
25 requirements, after
26 consideration for the
27 amounts in subsection
28 (14)(a) and (i).
29 (2) If a hospital requests the department to conduct a
30 certification survey for purposes of title XVIII or title XIX of

1 the social security act, the hospital shall pay a license fee
2 surcharge of \$23.00 per bed. As used in this subsection, "title
3 XVIII" and "title XIX" mean those terms as defined in section
4 20155.

5 (3) The base fee for a certificate of need is \$1,500.00 for
6 each application. For a project requiring a projected capital
7 expenditure of more than \$500,000.00 but less than \$4,000,000.00,
8 an additional fee of \$4,000.00 shall be added to the base fee.
9 For a project requiring a projected capital expenditure of
10 \$4,000,000.00 or more, an additional fee of \$7,000.00 shall be
11 added to the base fee. The department of community health shall
12 use the fees collected under this subsection only to fund the
13 certificate of need program. Funds remaining in the certificate
14 of need program at the end of the fiscal year shall not lapse to
15 the general fund but shall remain available to fund the
16 certificate of need program in subsequent years.

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

21 (5) Fees described in this section are payable to the
22 department at the time an application for a license, permit, or
23 certificate is submitted. If an application for a license,
24 permit, or certificate is denied or if a license, permit, or
25 certificate is revoked before its expiration date, the department
26 shall not refund fees paid to the department.

27 (6) The fee for a provisional license or temporary permit is

1 the same as for a license. A license may be issued at the
2 expiration date of a temporary permit without an additional fee
3 for the balance of the period for which the fee was paid if the
4 requirements for licensure are met.

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

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

13 (9) The cost of licensure activities shall be supported by
14 license fees.

15 (10) The application fee for a waiver under section 21564 is
16 \$200.00 plus \$40.00 per hour for the professional services and
17 travel expenses directly related to processing the application.
18 The travel expenses shall be calculated in accordance with the
19 state standardized travel regulations of the department of
20 management and budget in effect at the time of the travel.

21 (11) An applicant for licensure or renewal of licensure
22 under part 209 shall pay the applicable fees set forth in part
23 209.

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

27 (13) The quality assurance assessment collected under

House Bill No. 4185 as amended September 26, 2007

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

4 (a) The quality assurance assessment and all federal
5 matching funds attributed to that assessment shall be used to
6 finance medicaid nursing home reimbursement payments. Only
7 licensed nursing homes and hospital long-term care units that are
8 assessed the quality assurance assessment and participate in the
9 medicaid program are eligible for increased per diem medicaid

10 reimbursement rates under this subdivision. <<A NURSING HOME OR LONG-TERM
11 CARE UNIT THAT IS ASSESSED THE QUALITY ASSURANCE ASSESSMENT AND THAT DOES
12 NOT PAY THE ASSESSMENT REQUIRED UNDER SUBSECTION (1)(G) IN ACCORDANCE
13 WITH SUBDIVISION (C) (i) OR IN ACCORDANCE WITH A WRITTEN PAYMENT AGREEMENT
14 WITH THE STATE SHALL NOT RECEIVE THE INCREASED PER DIEM MEDICAID
15 REIMBURSEMENT RATES UNDER THIS SUBDIVISION UNTIL ALL OF ITS OUTSTANDING
16 QUALITY ASSURANCE ASSESSMENTS AND ANY PENALTIES ASSESSED PURSUANT TO
17 SUBDIVISION (G) HAVE BEEN PAID IN FULL. NOTHING IN THIS SUBDIVISION SHALL
18 BE CONSTRUED TO AUTHORIZE OR REQUIRE THE DEPARTMENT TO OVERSPEND TAX
19 REVENUE IN VIOLATION OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL
20 18.1101 TO 18.1594.>>

21 (b) Except as otherwise provided under subdivision (c),
22 beginning October 1, 2005, the quality assurance assessment is
23 based on the total number of patient days of care each nursing
24 home and hospital long-term care unit provided to nonmedicare
25 patients within the immediately preceding year and shall be
26 assessed at a uniform rate on October 1, 2005 and subsequently on
27 October 1 of each following year, and is payable on a quarterly
basis, the first payment due 90 days after the date the
assessment is assessed.

28 (c) Within 30 days after September 30, 2005, the department
29 shall submit an application to the federal centers for medicare
30 and medicaid services to request a waiver pursuant to 42 CFR
31 433.68(e) to implement this subdivision as follows:

32 (i) If the waiver is approved, the quality assurance
33 assessment rate for a nursing home or hospital long-term care
34 unit with less than 40 licensed beds or with the maximum number,
35 or more than the maximum number, of licensed beds necessary to

1 secure federal approval of the application is \$2.00 per
2 nonmedicare patient day of care provided within the immediately
3 preceding year or a rate as otherwise altered on the application
4 for the waiver to obtain federal approval. If the waiver is
5 approved, for all other nursing homes and long-term care units
6 the quality assurance assessment rate is to be calculated by
7 dividing the total statewide maximum allowable assessment
8 permitted under subsection (1)(g) less the total amount to be
9 paid by the nursing homes and long-term care units with less than
10 40 or with the maximum number, or more than the maximum number,
11 of licensed beds necessary to secure federal approval of the
12 application by the total number of nonmedicare patient days of
13 care provided within the immediately preceding year by those
14 nursing homes and long-term care units with more than 39, but
15 less than the maximum number of licensed beds necessary to secure
16 federal approval. The quality assurance assessment, as provided
17 under this subparagraph, shall be assessed in the first quarter
18 after federal approval of the waiver and shall be subsequently
19 assessed on October 1 of each following year, and is payable on a
20 quarterly basis, the first payment due 90 days after the date the
21 assessment is assessed.

22 (ii) If the waiver is approved, continuing care retirement
23 centers are exempt from the quality assurance assessment if the
24 continuing care retirement center requires each center resident
25 to provide an initial life interest payment of \$150,000.00, on
26 average, per resident to ensure payment for that resident's
27 residency and services and the continuing care retirement center

1 utilizes all of the initial life interest payment before the
2 resident becomes eligible for medical assistance under the
3 state's medicaid plan. As used in this subparagraph, "continuing
4 care retirement center" means a nursing care facility that
5 provides independent living services, assisted living services,
6 and nursing care and medical treatment services, in a campus-like
7 setting that has shared facilities or common areas, or both.

8 (d) Beginning October 1, ~~2007~~—**2011**, the department shall no
9 longer assess or collect the quality assurance assessment or
10 apply for federal matching funds.

11 (e) Beginning May 10, 2002, the department of community
12 health shall increase the per diem nursing home medicaid
13 reimbursement rates for the balance of that year. For each
14 subsequent year in which the quality assurance assessment is
15 assessed and collected, the department of community health shall
16 maintain the medicaid nursing home reimbursement payment increase
17 financed by the quality assurance assessment.

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

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

1 health may also refer for collection to the department of
2 treasury past due amounts consistent with section 13 of 1941 PA
3 122, MCL 205.13.

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

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

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

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

22 (l) In **EACH** fiscal year, ~~2005-2006,~~ \$39,900,000.00 of the
23 quality assurance assessment collected pursuant to subsection
24 (1)(g) shall be appropriated to the department of community
25 health to support medicaid expenditures for long-term care
26 services. These funds shall offset an identical amount of general
27 fund/general purpose revenue originally appropriated for that

1 purpose.

2 (14) The quality assurance dedication is an earmarked
3 assessment collected under subsection (1)(h). That assessment and
4 all federal matching funds attributed to that assessment shall be
5 used only for the following purpose and under the following
6 specific circumstances:

7 (a) To maintain the increased medicaid reimbursement rate
8 increases as provided for in subdivision (c).

9 (b) The quality assurance assessment shall be assessed on
10 all net patient revenue, before deduction of expenses, less
11 medicare net revenue, as reported in the most recently available
12 medicare cost report and is payable on a quarterly basis, the
13 first payment due 90 days after the date the assessment is
14 assessed. As used in this subdivision, "medicare net revenue"
15 includes medicare payments and amounts collected for coinsurance
16 and deductibles.

17 (c) Beginning October 1, 2002, the department of community
18 health shall increase the hospital medicaid reimbursement rates
19 for the balance of that year. For each subsequent year in which
20 the quality assurance assessment is assessed and collected, the
21 department of community health shall maintain the hospital
22 medicaid reimbursement rate increase financed by the quality
23 assurance assessments.

24 (d) The department of community health shall implement this
25 section in a manner that complies with federal requirements
26 necessary to assure that the quality assurance assessment
27 qualifies for federal matching funds.

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

8 (f) The hospital quality assurance assessment fund is
9 established in the state treasury. The department of community
10 health shall deposit the revenue raised through the quality
11 assurance assessment with the state treasurer for deposit in the
12 hospital quality assurance assessment fund.

13 (g) In each fiscal year governed by this subsection, the
14 quality assurance assessment shall only be collected and expended
15 if medicaid hospital inpatient DRG and outpatient reimbursement
16 rates and disproportionate share hospital and graduate medical
17 education payments are not below the level of rates and payments
18 in effect on April 1, 2002 as a direct result of the quality
19 assurance assessment collected under subsection (1)(h), except as
20 provided in subdivision (h).

21 (h) The quality assurance assessment collected under
22 subsection (1)(h) shall no longer be assessed or collected after
23 September 30, 2008, or in the event that the quality assurance
24 assessment is not eligible for federal matching funds. Any
25 portion of the quality assurance assessment collected from a
26 hospital that is not eligible for federal matching funds shall be
27 returned to the hospital.

House Bill No. 4185 as amended September 25, 2007

1 (i) In fiscal year 2005-2006, \$46,400,000.00 of the quality
2 assurance assessment collected pursuant to subsection (1)(h)
3 shall be appropriated to the department of community health to
4 support medicaid expenditures for hospital services and therapy.
5 **IN FISCAL YEAR 2006-2007, \$66,400,000.00 OF THE QUALITY ASSURANCE**
6 **ASSESSMENT COLLECTED PURSUANT TO SUBSECTION (1)(H) SHALL BE**
7 **APPROPRIATED TO THE DEPARTMENT OF COMMUNITY HEALTH TO SUPPORT**
8 **MEDICAID EXPENDITURES FOR HOSPITAL SERVICES AND THERAPY. <<EXCEPT AS**
9 **OTHERWISE PROVIDED IN THIS SUBDIVISION, IN FISCAL YEAR 2007-2008,**
10 **\$66,400,000.00 OF THE QUALITY ASSURANCE ASSESSMENT COLLECTED PURSUANT TO**
11 **SUBSECTION (1)(H) SHALL BE APPROPRIATED TO THE DEPARTMENT OF COMMUNITY**
12 **HEALTH TO SUPPORT MEDICAID EXPENDITURES FOR HOSPITAL SERVICES AND**
13 **THERAPY. HOWEVER, IF THE STATE RECEIVES APPROVAL FROM THE CENTERS FOR**
14 **MEDICARE AND MEDICAID SERVICES TO INCREASE MEDICAID HEALTH MAINTENANCE**
15 **ORGANIZATION HOSPITAL PAYMENT RATES THAT INCREASE MEDICAID PAYMENTS TO**
16 **HOSPITALS BY \$120,000,000.00 OR MORE IN FISCAL YEAR 2007-2008, THEN IN**
17 **FISCAL YEAR 2007-2008, \$81,400,000.00, INSTEAD OF \$66,400,000.00, OF THE**
18 **QUALITY ASSURANCE ASSESSMENT COLLECTED PURSUANT TO SUBSECTION (1)(H)**
19 **SHALL BE APPROPRIATED TO THE DEPARTMENT OF COMMUNITY HEALTH TO SUPPORT**
20 **MEDICAID EXPENDITURES FOR HOSPITAL SERVICES AND THERAPY.>> These**
21 funds shall offset an identical amount of general fund/general
22 purpose revenue originally appropriated for that purpose.

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

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