

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4734

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20161 (MCL 333.20161), as amended by 2008 PA
277.

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 **TECHNOLOGY**, management, and budget in effect at the time of the
21 travel.

22 (11) An applicant for licensure or renewal of licensure
23 under part 209 shall pay the applicable fees set forth in part
24 209.

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

1 department may use the unreserved fund balance in fees and
2 assessments for the ~~background~~ **CRIMINAL HISTORY** check program
3 required under this article.

4 (13) The quality assurance assessment collected under
5 subsection (1)(g) and all federal matching funds attributed to
6 that assessment shall be used only for the following purposes and
7 under the following specific circumstances:

8 (a) The quality assurance assessment and all federal
9 matching funds attributed to that assessment shall be used to
10 finance medicaid nursing home reimbursement payments. Only
11 licensed nursing homes and hospital long-term care units that are
12 assessed the quality assurance assessment and participate in the
13 medicaid program are eligible for increased per diem medicaid
14 reimbursement rates under this subdivision. A nursing home or
15 long-term care unit that is assessed the quality assurance
16 assessment and that does not pay the assessment required under
17 subsection (1)(g) in accordance with subdivision (c)(i) or in
18 accordance with a written payment agreement with the state shall
19 not receive the increased per diem medicaid reimbursement rates
20 under this subdivision until all of its outstanding quality
21 assurance assessments and any penalties assessed pursuant to
22 subdivision ~~(g)~~ **(F)** have been paid in full. Nothing in this
23 subdivision shall be construed to authorize or require the
24 department to overspend tax revenue in violation of the
25 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

26 (b) Except as otherwise provided under subdivision (c),
27 beginning October 1, 2005, the quality assurance assessment is

1 based on the total number of patient days of care each nursing
2 home and hospital long-term care unit provided to nonmedicare
3 patients within the immediately preceding year and shall be
4 assessed at a uniform rate on October 1, 2005 and subsequently on
5 October 1 of each following year, and is payable on a quarterly
6 basis, the first payment due 90 days after the date the
7 assessment is assessed.

8 (c) Within 30 days after September 30, 2005, the department
9 shall submit an application to the federal centers for medicare
10 and medicaid services to request a waiver pursuant to 42 CFR
11 433.68(e) to implement this subdivision as follows:

12 (i) If the waiver is approved, the quality assurance
13 assessment rate for a nursing home or hospital long-term care
14 unit with less than 40 licensed beds or with the maximum number,
15 or more than the maximum number, of licensed beds necessary to
16 secure federal approval of the application is \$2.00 per
17 nonmedicare patient day of care provided within the immediately
18 preceding year or a rate as otherwise altered on the application
19 for the waiver to obtain federal approval. If the waiver is
20 approved, for all other nursing homes and long-term care units
21 the quality assurance assessment rate is to be calculated by
22 dividing the total statewide maximum allowable assessment
23 permitted under subsection (1)(g) less the total amount to be
24 paid by the nursing homes and long-term care units with less than
25 40 or with the maximum number, or more than the maximum number,
26 of licensed beds necessary to secure federal approval of the
27 application by the total number of nonmedicare patient days of

1 care provided within the immediately preceding year by those
2 nursing homes and long-term care units with more than 39, but
3 less than the maximum number of licensed beds necessary to secure
4 federal approval. The quality assurance assessment, as provided
5 under this subparagraph, shall be assessed in the first quarter
6 after federal approval of the waiver and shall be subsequently
7 assessed on October 1 of each following year, and is payable on a
8 quarterly basis, the first payment due 90 days after the date the
9 assessment is assessed.

10 (ii) If the waiver is approved, continuing care retirement
11 centers are exempt from the quality assurance assessment if the
12 continuing care retirement center requires each center resident
13 to provide an initial life interest payment of \$150,000.00, on
14 average, per resident to ensure payment for that resident's
15 residency and services and the continuing care retirement center
16 utilizes all of the initial life interest payment before the
17 resident becomes eligible for medical assistance under the
18 state's medicaid plan. As used in this subparagraph, "continuing
19 care retirement center" means a nursing care facility that
20 provides independent living services, assisted living services,
21 and nursing care and medical treatment services, in a campus-like
22 setting that has shared facilities or common areas, or both.

23 ~~—— (d) Beginning October 1, 2011, the department shall no~~
24 ~~longer assess or collect the quality assurance assessment or~~
25 ~~apply for federal matching funds.~~

26 (D) ~~(e)~~ Beginning May 10, 2002, the department of community
27 health shall increase the per diem nursing home medicaid

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

6 (E) ~~(f)~~—The department of community health shall implement
7 this 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) ~~(g)~~—If a nursing home or a hospital long-term care unit
11 fails to pay the assessment required by subsection (1)(g), the
12 department of community health may assess the nursing home or
13 hospital long-term care unit a penalty of 5% of the assessment
14 for each month that the assessment and penalty are not paid up to
15 a maximum of 50% of the assessment. The department of community
16 health may also refer for collection to the department of
17 treasury past due amounts consistent with section 13 of 1941 PA
18 122, MCL 205.13.

19 (G) ~~(h)~~—The medicaid nursing home quality assurance
20 assessment fund is established in the state treasury. The
21 department of community health shall deposit the revenue raised
22 through the quality assurance assessment with the state treasurer
23 for deposit in the medicaid nursing home quality assurance
24 assessment fund.

25 (H) ~~(i)~~—The department of community health shall not
26 implement this subsection in a manner that conflicts with 42 USC
27 1396b(w).

1 (I) ~~(j)~~—The quality assurance assessment collected under
2 subsection (1)(g) shall be prorated on a quarterly basis for any
3 licensed beds added to or subtracted from a nursing home or
4 hospital long-term care unit since the immediately preceding July
5 1. Any adjustments in payments are due on the next quarterly
6 installment due date.

7 (J) ~~(k)~~—In each fiscal year governed by this subsection,
8 medicaid reimbursement rates shall not be reduced below the
9 medicaid reimbursement rates in effect on April 1, 2002 as a
10 direct result of the quality assurance assessment collected under
11 subsection (1)(g).

12 (K) ~~(l)~~—~~In fiscal year 2007-2008, \$39,900,000.00 of the~~
13 ~~quality assurance assessment collected pursuant to subsection~~
14 ~~(1)(g) shall be appropriated to the department of community~~
15 ~~health to support medicaid expenditures for long-term care~~
16 ~~services.—The state retention amount of the quality assurance~~
17 ~~assessment collected pursuant to subsection (1)(g) for fiscal~~
18 ~~year 2008-2009 shall be \$41,473,500.00, and for each subsequent~~
19 ~~fiscal year shall be equal to 13.2% of the federal funds~~
20 ~~generated by the nursing homes and hospital long-term care units~~
21 ~~quality assurance assessment, including the state retention~~
22 ~~amount. The state retention amount shall be appropriated each~~
23 ~~fiscal year to the department of community health to support~~
24 ~~medicaid expenditures for long-term care services. These funds~~
25 ~~shall offset an identical amount of general fund/general purpose~~
26 ~~revenue originally appropriated for that purpose.~~

27 (I) **BEGINNING OCTOBER 1, 2015, THE DEPARTMENT SHALL NO LONGER**

1 ASSESS OR COLLECT THE QUALITY ASSURANCE ASSESSMENT OR APPLY FOR
2 FEDERAL MATCHING FUNDS. THE QUALITY ASSURANCE ASSESSMENT
3 COLLECTED UNDER SUBSECTION (1)(G) SHALL NO LONGER BE ASSESSED OR
4 COLLECTED AFTER SEPTEMBER 30, 2011, IN THE EVENT THAT THE QUALITY
5 ASSURANCE ASSESSMENT IS NOT ELIGIBLE FOR FEDERAL MATCHING FUNDS.
6 ANY PORTION OF THE QUALITY ASSURANCE ASSESSMENT COLLECTED FROM A
7 NURSING HOME OR HOSPITAL LONG-TERM CARE UNIT THAT IS NOT ELIGIBLE
8 FOR FEDERAL MATCHING FUNDS SHALL BE RETURNED TO THE NURSING HOME
9 OR HOSPITAL LONG-TERM CARE UNIT.

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

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

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

25 (c) Beginning October 1, 2002, the department of community
26 health shall increase the hospital medicaid reimbursement rates
27 for the balance of that year. For each subsequent year in which

1 the quality assurance assessment is assessed and collected, the
2 department of community health shall maintain the hospital
3 medicaid reimbursement rate increase financed by the quality
4 assurance assessments.

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

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

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

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

1 provided in subdivision (h).

2 (h) The quality assurance assessment collected under
3 subsection (1)(h) shall no longer be assessed or collected after
4 September 30, 2011 in the event that the quality assurance
5 assessment is not eligible for federal matching funds. Any
6 portion of the quality assurance assessment collected from a
7 hospital that is not eligible for federal matching funds shall be
8 returned to the hospital.

9 ~~(i) In fiscal year 2007-2008, \$98,850,000.00 of the quality~~
10 ~~assurance assessment collected pursuant to subsection (1)(h)~~
11 ~~shall be appropriated to the department of community health to~~
12 ~~support medicaid expenditures for hospital services and therapy.~~
13 The state retention amount of the quality assurance assessment
14 collected pursuant to subsection (1)(h) ~~for fiscal year 2008-2009~~
15 ~~and each subsequent fiscal year~~ shall be equal to 13.2% of the
16 federal funds generated by the hospital quality assurance
17 assessment, including the state retention amount. The state
18 retention percentage shall be applied proportionately to each
19 hospital quality assurance assessment program to determine the
20 retention amount for each program. The state retention amount
21 shall be appropriated each fiscal year to the department of
22 community health to support medicaid expenditures for hospital
23 services and therapy. These funds shall offset an identical
24 amount of general fund/general purpose revenue originally
25 appropriated for that purpose.

26 (15) The quality assurance assessment provided for under
27 this section is a tax that is levied on a health facility or

1 agency.

2 (16) As used in this section, "medicaid" means that term as

3 defined in section 22207.