

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4447

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 6237, 6238, 20104, 20106, 20145, 20155, 20161,
20501, 20521, and 20551 (MCL 333.6237, 333.6238, 333.20104,
333.20106, 333.20145, 333.20155, 333.20161, 333.20501, 333.20521,
and 333.20551), sections 6237 and 6238 as amended by 2012 PA 501,
section 20104 as amended by 2010 PA 381, section 20106 as amended
by 2014 PA 449, section 20145 as amended by 2004 PA 469, section
20155 as amended by 2012 PA 322, and section 20161 as amended by
2013 PA 137; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6237. ~~The~~ **UNTIL OCTOBER 1, 2019, THE** department shall
2 ~~issue a license~~ **ASSESS A \$500.00 FEE FOR LICENSES ON AN ANNUAL**
3 **BASIS** upon determining that the applicant has complied with this

1 part and rules promulgated under this part. A licensee shall
2 prominently display the license while it is in effect.

3 Sec. 6238. (1) A standard license issued under this part is
4 effective for **NO LONGER THAN** 1 year after the date of issuance. The
5 department may issue a provisional license to an applicant
6 temporarily unable to comply with this part or the rules
7 promulgated under this part. The department may renew or extend a
8 provisional license issued under this section for not more than 1
9 year. The department may issue a temporary, nonrenewable permit for
10 not more than 90 days if additional time is needed for the
11 department to properly investigate or for the applicant to
12 undertake remedial action.

13 (2) **THE DEPARTMENT SHALL MAKE AT LEAST 1 VISIT TO EACH**
14 **LICENSED SUBSTANCE USE DISORDER PROGRAM EVERY 3 YEARS FOR SURVEY**
15 **AND EVALUATION FOR THE PURPOSE OF LICENSURE.**

16 (3) **THE DEPARTMENT MAY WAIVE THE VISIT REQUIRED BY SUBSECTION**
17 **(2) IF THE LICENSED PROGRAM REQUESTS A WAIVER AND SUBMITS THE**
18 **FOLLOWING:**

19 (A) **EVIDENCE THAT IT IS CURRENTLY FULLY ACCREDITED BY AN**
20 **ACCREDITING BODY WITH EXPERTISE IN THE HEALTH FACILITY TYPE AND THE**
21 **ACCREDITING ORGANIZATION IS ACCEPTED BY THE DEPARTMENT.**

22 (B) **A COPY OF THE MOST RECENT ACCREDITATION EXECUTIVE SUMMARY**
23 **SUBMITTED TO THE DEPARTMENT AT LEAST 30 DAYS FROM LICENSURE**
24 **RENEWAL. SUBMISSION OF AN EXECUTIVE SUMMARY DOES NOT PREVENT OR**
25 **PROHIBIT THE DEPARTMENT FROM REQUESTING THE ENTIRE ACCREDITATION**
26 **REPORT IF THE DEPARTMENT CONSIDERS IT NECESSARY.**

27 (4) **ACCREDITATION INFORMATION PROVIDED TO THE DEPARTMENT UNDER**

1 SUBSECTION (3) IS CONFIDENTIAL, IS NOT A PUBLIC RECORD, AND IS NOT
2 SUBJECT TO COURT SUBPOENA. THE DEPARTMENT SHALL USE THE
3 ACCREDITATION INFORMATION ONLY AS PROVIDED IN THIS SECTION. THE
4 DEPARTMENT SHALL PROPERLY DESTROY THE DOCUMENTATION AFTER A
5 DECISION ON THE WAIVER REQUEST IS MADE.

6 (5) THE DEPARTMENT SHALL GRANT A WAIVER UNDER SUBSECTION (3)
7 IF THE ACCREDITATION REPORT SUBMITTED IS LESS THAN 3 YEARS OLD AND
8 THERE IS NO INDICATION OF SUBSTANTIAL NONCOMPLIANCE WITH LICENSURE
9 STANDARDS OR OF DEFICIENCIES THAT REPRESENT A THREAT TO PUBLIC
10 SAFETY OR PATIENT CARE IN THE ACCREDITATION REPORT.

11 (6) DENIAL OF WAIVER REQUEST BY THE DEPARTMENT IS NOT SUBJECT
12 TO APPEAL.

13 (7) THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT FROM
14 CONDUCTING AN INSPECTION OR CITING A VIOLATION OF THIS PART RELATED
15 TO A COMPLAINT.

16 Sec. 20104. (1) "Certification" means the issuance of a
17 document by the department to a health facility or agency attesting
18 to the fact that the **HEALTH** facility or agency meets both of the
19 following:

20 (a) It complies with applicable statutory and regulatory
21 requirements and standards.

22 (b) It is eligible to participate as a provider of care and
23 services in a specific federal or state health program.

24 ~~—— (2) "Clinical laboratory" means a facility patronized by, or~~
25 ~~at the direction of, a physician, health officer, or other person~~
26 ~~authorized by law to obtain information for the diagnosis,~~
27 ~~prevention, or treatment of disease or the assessment of a medical~~

1 condition by the microbiological, serological, histological,
 2 hematological, immunohematological, biophysical, cytological,
 3 pathological, or biochemical examination of materials derived from
 4 the human body, except as provided in section 20507.

5 (2) ~~(3)~~—"Consumer" means a person who is not a provider of
 6 health care as defined in section 1531(3) of title 15 of the public
 7 health service act, 42 USC 300n.

8 (3) ~~(4)~~—"County medical care facility" means a nursing care
 9 facility, other than a hospital long-term care unit, ~~which~~ **THAT**
 10 provides organized nursing care and medical treatment to 7 or more
 11 unrelated individuals who are suffering or recovering from illness,
 12 injury, or infirmity and ~~which~~ **THAT** is owned by a county or
 13 counties.

14 (4) ~~(5)~~—"Direct access" means access to a patient or resident
 15 or to a patient's or resident's property, financial information,
 16 medical records, treatment information, or any other identifying
 17 information.

18 (5) ~~(6)~~—"Freestanding surgical outpatient facility" means a
 19 facility, other than the office of a physician, dentist,
 20 podiatrist, or other private practice office, offering a surgical
 21 procedure and related care that in the opinion of the attending
 22 physician can be safely performed without requiring overnight
 23 inpatient hospital care. ~~It~~ **FREESTANDING SURGICAL OUTPATIENT**
 24 **FACILITY** does not include a surgical outpatient facility owned by
 25 and operated as part of a hospital.

26 (6) ~~(7)~~—"Good moral character" means that term as defined in
 27 section 1 of 1974 PA 381, MCL 338.41.

1 Sec. 20106. (1) "Health facility or agency", except as
2 provided in section 20115, means:

3 (a) An ambulance operation, aircraft transport operation,
4 nontransport prehospital life support operation, or medical first
5 response service.

6 ~~(b) A clinical laboratory.~~

7 (B) ~~(e)~~—A county medical care facility.

8 (C) ~~(d)~~—A freestanding surgical outpatient facility.

9 (D) ~~(e)~~—A health maintenance organization.

10 (E) ~~(f)~~—A home for the aged.

11 (F) ~~(g)~~—A hospital.

12 (G) ~~(h)~~—A nursing home.

13 (H) ~~(i)~~—A hospice.

14 (I) ~~(j)~~—A hospice residence.

15 (J) ~~(k)~~—A facility or agency listed in subdivisions (a) to ~~(h)~~
16 (G) located in a university, college, or other educational
17 institution.

18 (2) "Health maintenance organization" means that term as
19 defined in section 3501 of the insurance code of 1956, 1956 PA 218,
20 MCL 500.3501.

21 (3) "Home for the aged" means a supervised personal care
22 facility, other than a hotel, adult foster care facility, hospital,
23 nursing home, or county medical care facility that provides room,
24 board, and supervised personal care to 21 or more unrelated,
25 nontransient, individuals 60 years of age or older. Home for the
26 aged includes a supervised personal care facility for 20 or fewer
27 individuals 60 years of age or older if the facility is operated in

1 conjunction with and as a distinct part of a licensed nursing home.
2 Home for the aged does not include an area excluded from this
3 definition by section 17(3) of the continuing care community
4 disclosure act, **2014 PA 448**, MCL 554.917.

5 (4) "Hospice" means a health care program that provides a
6 coordinated set of services rendered at home or in outpatient or
7 institutional settings for individuals suffering from a disease or
8 condition with a terminal prognosis.

9 (5) "Hospital" means a facility offering inpatient, overnight
10 care, and services for observation, diagnosis, and active treatment
11 of an individual with a medical, surgical, obstetric, chronic, or
12 rehabilitative condition requiring the daily direction or
13 supervision of a physician. Hospital does not include a mental
14 health hospital licensed or operated by the department of community
15 health or a hospital operated by the department of corrections.

16 (6) "Hospital long-term care unit" means a nursing care
17 facility, owned and operated by and as part of a hospital,
18 providing organized nursing care and medical treatment to 7 or more
19 unrelated individuals suffering or recovering from illness, injury,
20 or infirmity.

21 Sec. 20145. (1) Before contracting for and initiating a
22 construction project involving new construction, additions,
23 modernizations, or conversions of a health facility or agency with
24 a capital expenditure of \$1,000,000.00 or more, a person shall
25 obtain a construction permit from the department. The department
26 shall not issue the permit under this subsection unless the
27 applicant holds a valid certificate of need if a certificate of

1 need is required for the project pursuant to ~~UNDER~~ part 222.

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

7 (3) If a construction project requires a construction permit
8 under subsection (1) or (2), but does not require a certificate of
9 need under part 222, the department shall require the applicant to
10 submit information considered necessary by the department to assure
11 that the capital expenditure for the project is not a covered
12 capital expenditure as defined in section 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 permit
7 review for a health facility or agency under this section, the
8 department shall, at a minimum, apply the standards contained in
9 the document entitled "Minimum Design Standards for Health Care
10 Facilities in Michigan" published by the department and dated ~~March~~
11 ~~1998.~~ **JULY 2007**. The standards are incorporated by reference for
12 purposes of this subsection. The department may promulgate rules
13 that are more stringent than the standards if necessary to protect
14 the public health, safety, and welfare.

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

18 (8) The department may waive the applicability of this section
19 to a construction project or alteration if the waiver will not
20 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 permit
23 to a construction project that is not subject to subsection (1) or
24 (2) if the department determines that the review will promote the
25 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 \$60,000.00.

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

8 Sec. 20155. (1) Except as otherwise provided in this section
9 and section 20155a, the department shall make ~~annual and other~~
10 ~~visits to each health facility or agency licensed under this~~
11 ~~article for the purposes of survey, evaluation, and consultation.~~
12 **AT LEAST 1 VISIT TO EACH LICENSED HEALTH FACILITY OR AGENCY EVERY 3**
13 **YEARS FOR SURVEY AND EVALUATION FOR THE PURPOSE OF LICENSURE.** A
14 visit made according to a complaint shall be unannounced. Except
15 for a county medical care facility, a home for the aged, a nursing
16 home, or a hospice residence, the department shall determine
17 whether the visits that are not made according to a complaint are
18 announced or unannounced. ~~Beginning June 20, 2001, the~~ **THE**
19 department shall ensure that each newly hired nursing home
20 surveyor, as part of his or her basic training, is assigned full-
21 time to a licensed nursing home for at least 10 days within a 14-
22 day period to observe actual operations outside of the survey
23 process before the trainee begins oversight responsibilities.

24 (2) The state shall establish a process that ensures both of
25 the following:

26 (a) A newly hired nursing home surveyor shall not make
27 independent compliance decisions during his or her training period.

1 (b) A nursing home surveyor shall not be assigned as a member
2 of a survey team for a nursing home in which he or she received
3 training for 1 standard survey following the training received in
4 that nursing home.

5 (3) ~~Beginning November 1, 2012, the~~ **THE** department shall
6 perform a criminal history check on all nursing home surveyors in
7 the manner provided for in section 20173a.

8 (4) A member of a survey team shall not be employed by a
9 licensed nursing home or a nursing home management company doing
10 business in this state at the time of conducting a survey under
11 this section. The department shall not assign an individual to be a
12 member of a survey team for purposes of a survey, evaluation, or
13 consultation visit at a nursing home in which he or she was an
14 employee within the preceding 3 years.

15 (5) Representatives from all nursing home provider
16 organizations and the state long-term care ombudsman or his or her
17 designee shall be invited to participate in the planning process
18 for the joint provider and surveyor training sessions. The
19 department shall include at least 1 representative from nursing
20 home provider organizations that do not own or operate a nursing
21 home representing 30 or more nursing homes statewide in internal
22 surveyor group quality assurance training provided for the purpose
23 of general clarification and interpretation of existing or new
24 regulatory requirements and expectations.

25 (6) The department shall make available online the general
26 civil service position description related to the required
27 qualifications for individual surveyors. The department shall use

1 the required qualifications to hire, educate, develop, and evaluate
2 surveyors.

3 (7) The department shall ensure that each annual survey team
4 is composed of an interdisciplinary group of professionals, 1 of
5 whom must be a registered nurse. Other members may include social
6 workers, therapists, dietitians, pharmacists, administrators,
7 physicians, sanitarians, and others who may have the expertise
8 necessary to evaluate specific aspects of nursing home operation.

9 ~~(8) Except as otherwise provided in this section and section~~
10 ~~20155a, the department shall make at least a biennial visit to each~~
11 ~~licensed clinical laboratory, each nursing home, and each hospice~~
12 ~~residence for the purposes of survey, evaluation, and consultation.~~
13 The department shall semiannually provide for joint training with
14 nursing home surveyors and providers on at least 1 of the 10 most
15 frequently issued federal citations in this state during the past
16 calendar year. The department shall develop a protocol for the
17 review of citation patterns compared to regional outcomes and
18 standards and complaints regarding the nursing home survey process.
19 The review will be included in the report required under subsection
20 (20). Except as otherwise provided in this subsection, beginning
21 with his or her first full relicensure period after June 20, 2000,
22 each member of a department nursing home survey team who is a
23 health professional licensee under article 15 shall earn not less
24 than 50% of his or her required continuing education credits, if
25 any, in geriatric care. If a member of a nursing home survey team
26 is a pharmacist licensed under article 15, he or she shall earn not
27 less than 30% of his or her required continuing education credits

1 in geriatric care.

2 (9) ~~The department shall make a biennial visit to each~~
3 ~~hospital for survey and evaluation for the purpose of licensure.~~
4 Subject to subsection (12), the department may waive the biennial
5 visit required by ~~this~~ subsection (1) if a ~~hospital, as part of a~~
6 ~~timely application for license renewal,~~ **HEALTH FACILITY OR AGENCY,**
7 requests a waiver and submits ~~both of the following~~ **AS APPLICABLE**
8 and if all of the requirements of subsection (11) are met:

9 (a) Evidence that it is currently fully accredited by a body
10 with expertise in ~~hospital accreditation whose hospital~~
11 ~~accreditations are~~ **THE HEALTH FACILITY OR AGENCY TYPE AND THE**
12 **ACCREDITING ORGANIZATION IS** accepted by the United States
13 ~~department of health and human services~~ **DEPARTMENT OF HEALTH AND**
14 **HUMAN SERVICES** for purposes of section 1865 of part ~~C-E~~ of title
15 XVIII of the social security act, 42 USC 1395bb.

16 (b) A copy of the most recent accreditation report, ~~for the~~
17 ~~hospital~~ **OR EXECUTIVE SUMMARY,** issued by a body described in
18 subdivision (a), and the ~~hospital's~~ **HEALTH FACILITY'S OR AGENCY'S**
19 responses to the accreditation report **IS SUBMITTED TO THE**
20 **DEPARTMENT AT LEAST 30 DAYS FROM LICENSE RENEWAL. SUBMISSION OF AN**
21 **EXECUTIVE SUMMARY DOES NOT PREVENT OR PROHIBIT THE DEPARTMENT FROM**
22 **REQUESTING THE ENTIRE ACCREDITATION REPORT IF THE DEPARTMENT**
23 **CONSIDERS IT NECESSARY.**

24 (C) **FOR A NURSING HOME, A STANDARD FEDERAL CERTIFICATION**
25 **SURVEY CONDUCTED WITHIN THE IMMEDIATELY PRECEDING 9 TO 15 MONTHS**
26 **THAT SHOWS SUBSTANTIAL COMPLIANCE OR HAS AN ACCEPTED PLAN OF**
27 **CORRECTION, IF APPLICABLE.**

1 (10) Except as provided in subsection (14), accreditation
 2 information provided to the department under subsection (9) is
 3 confidential, is not a public record, and is not subject to court
 4 subpoena. The department shall use the accreditation information
 5 only as provided in this section and ~~shall return the accreditation~~
 6 ~~information to the hospital within a reasonable time~~ **PROPERLY**
 7 **DESTROY THE DOCUMENTATION** after a decision on the waiver request is
 8 made.

9 (11) The department shall grant a waiver under subsection (9)
 10 if the accreditation report submitted under subsection (9)(b) is
 11 less than ~~2-3~~ years old **OR THE STANDARD FEDERAL SURVEY SUBMITTED**
 12 **UNDER SUBSECTION (9)(C) IS LESS THAN 15 MONTHS OLD** and there is no
 13 indication of substantial noncompliance with licensure standards or
 14 of deficiencies that represent a threat to public safety or patient
 15 care. ~~in the report, in complaints involving the hospital, or in~~
 16 ~~any other information available to the department.~~ If the
 17 accreditation report **OR STANDARD FEDERAL SURVEY** is ~~2 or more~~ years
 18 **TOO** old, the department may ~~do 1 of the following:~~

19 ~~—— (a) Grant an extension of the hospital's current license until~~
 20 ~~the next accreditation survey is completed by the body described in~~
 21 ~~subsection (9)(a).~~

22 ~~—— (b) Grant a waiver under subsection (9) based on the~~
 23 ~~accreditation report that is 2 or more years old, on condition that~~
 24 ~~the hospital promptly submit the next accreditation report to the~~
 25 ~~department.~~

26 ~~—— (c) Deny~~ **DENY** the waiver request and conduct the visits
 27 required under subsection (9). **DENIAL OF A WAIVER REQUEST BY THE**

1 **DEPARTMENT IS NOT SUBJECT TO APPEAL.**

2 (12) This section does not prohibit the department from citing
3 a violation of this part during a survey, conducting investigations
4 or inspections according to section 20156, or conducting surveys of
5 health facilities or agencies for the purpose of complaint
6 investigations or federal certification. This section does not
7 prohibit the bureau of fire services created in section 1b of the
8 fire prevention code, 1941 PA 207, MCL 29.1b, from conducting
9 annual surveys of hospitals, nursing homes, and county medical care
10 facilities.

11 (13) At the request of a health facility or agency, the
12 department may conduct a consultation engineering survey of a
13 health facility and provide professional advice and consultation
14 regarding health facility construction and design. A health
15 facility or agency may request a voluntary consultation survey
16 under this subsection at any time between licensure surveys. The
17 fees for a consultation engineering survey are the same as the fees
18 established for waivers under section ~~20161(10)~~.**20161(8)**.

19 (14) If the department determines that substantial
20 noncompliance with licensure standards exists or that deficiencies
21 that represent a threat to public safety or patient care exist
22 based on a review of an accreditation report submitted under
23 subsection (9)(b), the department shall prepare a written summary
24 of the substantial noncompliance or deficiencies and the ~~hospital's~~
25 **HEALTH FACILITY'S OR AGENCY'S** response to the department's
26 determination. The department's written summary and the ~~hospital's~~
27 **HEALTH FACILITY'S OR AGENCY'S** response are public documents.

1 (15) The department or a local health department shall conduct
2 investigations or inspections, other than inspections of financial
3 records, of a county medical care facility, home for the aged,
4 nursing home, or hospice residence without prior notice to the
5 health facility or agency. An employee of a state agency charged
6 with investigating or inspecting the health facility or agency or
7 an employee of a local health department who directly or indirectly
8 gives prior notice regarding an investigation or an inspection,
9 other than an inspection of the financial records, to the health
10 facility or agency or to an employee of the health facility or
11 agency, is guilty of a misdemeanor. Consultation visits that are
12 not for the purpose of annual or follow-up inspection or survey may
13 be announced.

14 (16) The department shall maintain a record indicating whether
15 a visit and inspection is announced or unannounced. Survey findings
16 gathered at each health facility or agency during each visit and
17 inspection, whether announced or unannounced, shall be taken into
18 account in licensure decisions.

19 (17) The department shall require periodic reports and a
20 health facility or agency shall give the department access to
21 books, records, and other documents maintained by a health facility
22 or agency to the extent necessary to carry out the purpose of this
23 article and the rules promulgated under this article. The
24 department shall not divulge or disclose the contents of the
25 patient's clinical records in a manner that identifies an
26 individual except under court order. The department may copy health
27 facility or agency records as required to document findings.

1 Surveyors shall use electronic resident information, whenever
2 available, as a source of survey-related data and shall request
3 facility assistance to access the system to maximize data export.

4 (18) The department may delegate survey, evaluation, or
5 consultation functions to another state agency or to a local health
6 department qualified to perform those functions. ~~However, the~~ **THE**
7 department shall not delegate survey, evaluation, or consultation
8 functions to a local health department that owns or operates a
9 hospice or hospice residence licensed under this article. The
10 delegation shall be by cost reimbursement contract between the
11 department and the state agency or local health department. Survey,
12 evaluation, or consultation functions shall not be delegated to
13 nongovernmental agencies, except as provided in this section. ~~The~~
14 ~~department may accept voluntary inspections performed by an~~
15 ~~accrediting body with expertise in clinical laboratory~~
16 ~~accreditation under part 205 if the accrediting body utilizes forms~~
17 ~~acceptable to the department, applies the same licensing standards~~
18 ~~as applied to other clinical laboratories, and provides the same~~
19 ~~information and data usually filed by the department's own~~
20 ~~employees when engaged in similar inspections or surveys.~~ The
21 voluntary inspection described in this subsection shall be agreed
22 upon by both the licensee and the department.

23 (19) If, upon investigation, the department or a state agency
24 determines that an individual licensed to practice a profession in
25 this state has violated the applicable licensure statute or the
26 rules promulgated under that statute, the department, state agency,
27 or local health department shall forward the evidence it has to the

1 appropriate licensing agency.

2 (20) The department may consolidate all information provided
3 for any report required under this section and section 20155a into
4 a single report. The department shall report to the appropriations
5 subcommittees, the senate and house of representatives standing
6 committees having jurisdiction over issues involving senior
7 citizens, and the fiscal agencies on March 1 of each year on the
8 initial and follow-up surveys conducted on all nursing homes in
9 this state. The report shall include all of the following
10 information:

11 (a) The number of surveys conducted.

12 (b) The number requiring follow-up surveys.

13 (c) The average number of citations per nursing home for the
14 most recent calendar year.

15 (d) The number of night and weekend complaints filed.

16 (e) The number of night and weekend responses to complaints
17 conducted by the department.

18 (f) The average length of time for the department to respond
19 to a complaint filed against a nursing home.

20 (g) The number and percentage of citations disputed through
21 informal dispute resolution and independent informal dispute
22 resolution.

23 (h) The number and percentage of citations overturned or
24 modified, or both.

25 (i) The review of citation patterns developed under subsection
26 (8).

27 (j) Implementation of the clinical process guidelines and the

- 1 impact of the guidelines on resident care.
- 2 (k) Information regarding the progress made on implementing
3 the administrative and electronic support structure to efficiently
4 coordinate all nursing home licensing and certification functions.
- 5 (l) The number of annual standard surveys of nursing homes
6 that were conducted during a period of open survey or enforcement
7 cycle.
- 8 (m) The number of abbreviated complaint surveys that were not
9 conducted on consecutive surveyor workdays.
- 10 (n) The percent of all form CMS-2567 reports of findings that
11 were released to the nursing home within the 10-working-day
12 requirement.
- 13 (o) The percent of provider notifications of acceptance or
14 rejection of a plan of correction that were released to the nursing
15 home within the 10-working-day requirement.
- 16 (p) The percent of first revisits that were completed within
17 60 days from the date of survey completion.
- 18 (q) The percent of second revisits that were completed within
19 85 days from the date of survey completion.
- 20 (r) The percent of letters of compliance notification to the
21 nursing home that were released within 10 working days of the date
22 of the completion of the revisit.
- 23 (s) A summary of the discussions from the meetings required in
24 subsection (24).
- 25 (t) The number of nursing homes that participated in a
26 recognized quality improvement program as described under section
27 20155a(3).

1 (21) The department shall report March 1 of each year to the
2 standing committees on appropriations and the standing committees
3 having jurisdiction over issues involving senior citizens in the
4 senate and the house of representatives on all of the following:

5 (a) The percentage of nursing home citations that are appealed
6 through the informal dispute resolution process.

7 (b) The number and percentage of nursing home citations that
8 are appealed and supported, amended, or deleted through the
9 informal dispute resolution process.

10 (c) A summary of the quality assurance review of the amended
11 citations and related survey retraining efforts to improve
12 consistency among surveyors and across the survey administrative
13 unit that occurred in the year being reported.

14 (22) Subject to subsection (23), a clarification work group
15 comprised of the department in consultation with a nursing home
16 resident or a member of a nursing home resident's family, nursing
17 home provider groups, the American ~~medical directors association,~~
18 **MEDICAL DIRECTORS ASSOCIATION**, the state long-term care ombudsman,
19 and the federal ~~centers for medicare and medicaid services~~ **CENTERS**
20 **FOR MEDICARE AND MEDICAID SERVICES** shall clarify the following
21 terms as those terms are used in title XVIII and title XIX and
22 applied by the department to provide more consistent regulation of
23 nursing homes in this state:

24 (a) Immediate jeopardy.

25 (b) Harm.

26 (c) Potential harm.

27 (d) Avoidable.

1 (e) Unavoidable.

2 (23) All of the following clarifications developed under
3 subsection (22) apply for purposes of subsection (22):

4 (a) Specifically, the term "immediate jeopardy" means a
5 situation in which immediate corrective action is necessary because
6 the nursing home's noncompliance with 1 or more requirements of
7 participation has caused or is likely to cause serious injury,
8 harm, impairment, or death to a resident receiving care in a
9 nursing home.

10 (b) The likelihood of immediate jeopardy is reasonably higher
11 if there is evidence of a flagrant failure by the nursing home to
12 comply with a clinical process guideline adopted under subsection
13 (25) than if the nursing home has substantially and continuously
14 complied with those guidelines. If federal regulations and
15 guidelines are not clear, and if the clinical process guidelines
16 have been recognized, a process failure giving rise to an immediate
17 jeopardy may involve an egregious widespread or repeated process
18 failure and the absence of reasonable efforts to detect and prevent
19 the process failure.

20 (c) In determining whether or not there is immediate jeopardy,
21 the survey agency should consider at least all of the following:

22 (i) Whether the nursing home could reasonably have been
23 expected to know about the deficient practice and to stop it, but
24 did not stop the deficient practice.

25 (ii) Whether the nursing home could reasonably have been
26 expected to identify the deficient practice and to correct it, but
27 did not correct the deficient practice.

1 (iii) Whether the nursing home could reasonably have been
2 expected to anticipate that serious injury, serious harm,
3 impairment, or death might result from continuing the deficient
4 practice, but did not so anticipate.

5 (iv) Whether the nursing home could reasonably have been
6 expected to know that a widely accepted high-risk practice is or
7 could be problematic, but did not know.

8 (v) Whether the nursing home could reasonably have been
9 expected to detect the process problem in a more timely fashion,
10 but did not so detect.

11 (d) The existence of 1 or more of the factors described in
12 subdivision (c), and especially the existence of 3 or more of those
13 factors simultaneously, may lead to a conclusion that the situation
14 is one in which the nursing home's practice makes adverse events
15 likely to occur if immediate intervention is not undertaken, and
16 therefore constitutes immediate jeopardy. If none of the factors
17 described in subdivision (c) is present, the situation may involve
18 harm or potential harm that is not immediate jeopardy.

19 (e) Specifically, "actual harm" means a negative outcome to a
20 resident that has compromised the resident's ability to maintain or
21 reach, or both, his or her highest practicable physical, mental,
22 and psychosocial well-being as defined by an accurate and
23 comprehensive resident assessment, plan of care, and provision of
24 services. Harm does not include a deficient practice that only may
25 cause or has caused limited consequences to the resident.

26 (f) For purposes of subdivision (e), in determining whether a
27 negative outcome is of limited consequence, if the "state

1 operations manual" or "the guidance to surveyors" published by the
2 federal ~~centers for medicare and medicaid services~~ **CENTERS FOR**
3 **MEDICARE AND MEDICAID SERVICES** does not provide specific guidance,
4 the department may consider whether most people in similar
5 circumstances would feel that the damage was of such short duration
6 or impact as to be inconsequential or trivial. In such a case, the
7 consequence of a negative outcome may be considered more limited if
8 it occurs in the context of overall procedural consistency with an
9 accepted clinical process guideline adopted under subsection (25),
10 as compared to a substantial inconsistency with or variance from
11 the guideline.

12 (g) For purposes of subdivision (e), if the publications
13 described in subdivision (f) do not provide specific guidance, the
14 department may consider the degree of a nursing home's adherence to
15 a clinical process guideline adopted under subsection (25) in
16 considering whether the degree of compromise and future risk to the
17 resident constitutes actual harm. The risk of significant
18 compromise to the resident may be considered greater in the context
19 of substantial deviation from the guidelines than in the case of
20 overall adherence.

21 (h) To improve consistency and to avoid disputes over
22 avoidable and unavoidable negative outcomes, nursing homes and
23 survey agencies must have a common understanding of accepted
24 process guidelines and of the circumstances under which it can
25 reasonably be said that certain actions or inactions will lead to
26 avoidable negative outcomes. If the "state operations manual" or
27 "the guidance to surveyors" published by the federal ~~centers for~~

1 ~~medicare and medicaid services~~ **CENTERS FOR MEDICARE AND MEDICAID**

2 **SERVICES** is not specific, a nursing home's overall documentation of
3 adherence to a clinical process guideline with a process indicator
4 adopted under subsection (25) is relevant information in
5 considering whether a negative outcome was avoidable or unavoidable
6 and may be considered in the application of that term.

7 (24) The department shall conduct a quarterly meeting and
8 invite appropriate stakeholders. Appropriate stakeholders shall
9 include at least 1 representative from each nursing home provider
10 organization that does not own or operate a nursing home
11 representing 30 or more nursing homes statewide, the state long-
12 term care ombudsman or his or her designee, and any other clinical
13 experts. Individuals who participate in these quarterly meetings,
14 in conjunction with the department, may designate advisory
15 workgroups to develop recommendations on the discussion topics that
16 should include, at a minimum, all of the following:

17 (a) Opportunities for enhanced promotion of nursing home
18 performance, including, but not limited to, programs that encourage
19 and reward providers that strive for excellence.

20 (b) Seeking quality improvement to the survey and enforcement
21 process, including clarifications to process-related policies and
22 protocols that include, but are not limited to, all of the
23 following:

24 (i) Improving the surveyors' quality and preparedness.

25 (ii) Enhanced communication between regulators, surveyors,
26 providers, and consumers.

27 (iii) Ensuring fair enforcement and dispute resolution by

1 identifying methods or strategies that may resolve identified
2 problems or concerns.

3 (c) Promoting transparency across provider and surveyor
4 communities, including, but not limited to, all of the following:

5 (i) Applying regulations in a consistent manner and evaluating
6 changes that have been implemented to resolve identified problems
7 and concerns.

8 (ii) Providing consumers with information regarding changes in
9 policy and interpretation.

10 (iii) Identifying positive and negative trends and factors
11 contributing to those trends in the areas of resident care,
12 deficient practices, and enforcement.

13 (d) Clinical process guidelines.

14 (25) Subject to subsection (27), the department shall develop
15 and adopt clinical process guidelines. The department shall
16 establish and adopt clinical process guidelines and compliance
17 protocols with outcome measures for all of the following areas and
18 for other topics where the department determines that clarification
19 will benefit providers and consumers of long-term care:

20 (a) Bed rails.

21 (b) Adverse drug effects.

22 (c) Falls.

23 (d) Pressure sores.

24 (e) Nutrition and hydration including, but not limited to,
25 heat-related stress.

26 (f) Pain management.

27 (g) Depression and depression pharmacotherapy.

- 1 (h) Heart failure.
2 (i) Urinary incontinence.
3 (j) Dementia.
4 (k) Osteoporosis.
5 (l) Altered mental states.
6 (m) Physical and chemical restraints.
7 (n) Culture-change principles, person-centered caring, and
8 self-directed care.

9 (26) The department shall biennially review and update all
10 clinical process guidelines as needed and shall continue to develop
11 and implement clinical process guidelines for topics that have not
12 been developed from the list in subsection (25) and other topics
13 identified as a result of the meetings required in subsection (24).
14 The department shall consider recommendations from an advisory
15 workgroup created under subsection (24) on clinical process
16 guidelines. The department shall include training on new and
17 revised clinical process guidelines in the joint provider and
18 surveyor training sessions as those clinical process guidelines are
19 developed and revised.

20 (27) ~~Beginning November 1, 2012, representatives~~
21 **REPRESENTATIVES** from each nursing home provider organization that
22 does not own or operate a nursing home representing 30 or more
23 nursing homes statewide and the state long-term care ombudsman or
24 his or her designee shall be permanent members of any clinical
25 advisory workgroup created under subsection (24). The department
26 shall issue survey certification memorandums to providers to
27 announce or clarify changes in the interpretation of regulations.

1 (28) The department shall maintain the process by which the
2 **DEPARTMENT** director ~~of the division of nursing home monitoring or~~
3 his or her designee ~~or the director of the division of operations~~
4 ~~or his or her designee~~ reviews and authorizes the issuance of a
5 citation for immediate jeopardy or substandard quality of care
6 before the statement of deficiencies is made final. The review
7 shall be to assure that the applicable concepts, clinical process
8 guidelines, and other tools contained in subsections (25) to (27)
9 are being used consistently, accurately, and effectively. As used
10 in this subsection, "immediate jeopardy" and "substandard quality
11 of care" mean those terms as defined by the federal ~~centers for~~
12 ~~medicare and medicaid services.~~ **CENTERS FOR MEDICARE AND MEDICAID**
13 **SERVICES.**

14 (29) Upon availability of funds, the department shall give
15 grants, awards, or other recognition to nursing homes to encourage
16 the rapid implementation or maintenance of the clinical process
17 guidelines adopted under subsection (25).

18 (30) The department shall instruct and train the surveyors in
19 the clinical process guidelines adopted under subsection (25) in
20 citing deficiencies.

21 (31) A nursing home shall post the nursing home's survey
22 report in a conspicuous place within the nursing home for public
23 review.

24 (32) Nothing in this ~~amendatory act shall be construed to~~
25 ~~limit~~ **SECTION LIMITS** the requirements of related state and federal
26 law.

27 (33) As used in this section:

1 (a) "Consecutive days" means calendar days, but does not
2 include Saturday, Sunday, or state- or federally-recognized
3 holidays.

4 (b) "Form CMS-2567" means the federal ~~centers for medicare and~~
5 ~~medicaid services'~~ **CENTERS FOR MEDICARE AND MEDICAID SERVICES'** form
6 for the statement of deficiencies and plan of correction or a
7 successor form serving the same purpose.

8 (c) "Title XVIII" means title XVIII of the social security
9 act, 42 USC 1395 to 1395kkk.

10 (d) "Title XIX" means title XIX of the social security act, 42
11 USC 1396 to 1396w-5.

12 Sec. 20161. (1) The department shall assess fees and other
13 assessments for health facility and agency licenses and
14 certificates of need on an annual basis as provided in this
15 article. ~~Except~~ **UNTIL OCTOBER 1, 2019, EXCEPT** as otherwise provided
16 in this article, fees and assessments shall be paid as provided in
17 the following schedule:

18 (a) Freestanding surgical
19 outpatient facilities.....~~\$238.00~~ **\$500.00** per facility
20 **LICENSE.**

21 (b) Hospitals.....~~\$8.28~~ **\$500.00 PER FACILITY**
22 **LICENSE AND \$10.00** per
23 licensed bed.

24 (c) Nursing homes, county
25 medical care facilities, and
26 hospital long-term care units.....~~\$2.20~~ **\$500.00 PER FACILITY**
27 **LICENSE AND \$3.00** per

1 licensed bed **OVER 100**
2 **LICENSED BEDS.**
3 (d) Homes for the aged.....\$6.27 per licensed bed.
4 ~~(e) Clinical laboratories.....\$475.00 per laboratory.~~
5 **(E) HOSPICE AGENCIES.....\$500.00 PER AGENCY LICENSE.**
6 (f) Hospice residences.....~~\$200.00~~**\$500.00** per
7 **FACILITY** license ~~survey,~~
8 and ~~\$20.00~~**\$5.00** per
9 licensed bed.
10 (g) Subject to subsection
11 ~~(13),~~**(11)**, quality assurance assessment
12 for nursing homes and hospital
13 long-term care units.....an amount resulting
14 in not more than 6%
15 of total industry
16 revenues.
17 (h) Subject to subsection
18 ~~(14),~~**(12)**, quality assurance assessment
19 for hospitals.....at a fixed or variable
20 rate that generates
21 funds not more than the
22 maximum allowable under
23 the federal matching
24 requirements, after
25 consideration for the
26 amounts in subsection
27 ~~(14)(a)~~**(12)(A)** and (i).

1 (I) INITIAL LICENSURE

2 APPLICATION FEE FOR SUBDIVISIONS

3 (A), (B), (C), (E), AND (F).....\$2,000.00 PER INITIAL
4 LICENSE.

5 (2) If a hospital requests the department to conduct a
6 certification survey for purposes of title XVIII or title XIX of
7 the social security act, the hospital shall pay a license fee
8 surcharge of \$23.00 per bed. As used in this subsection, "title
9 XVIII" and "title XIX" mean those terms as defined in section
10 20155.

11 (3) All of the following apply to the assessment under this
12 section for certificates of need:

13 (a) The base fee for a certificate of need is \$3,000.00 for
14 each application. For a project requiring a projected capital
15 expenditure of more than \$500,000.00 but less than \$4,000,000.00,
16 an additional fee of \$5,000.00 is added to the base fee. For a
17 project requiring a projected capital expenditure of \$4,000,000.00
18 or more but less than \$10,000,000.00, an additional fee of
19 \$8,000.00 is added to the base fee. For a project requiring a
20 projected capital expenditure of \$10,000,000.00 or more, an
21 additional fee of \$12,000.00 is added to the base fee.

22 (b) In addition to the fees under subdivision (a), the
23 applicant shall pay \$3,000.00 for any designated complex project
24 including a project scheduled for comparative review or for a
25 consolidated licensed health facility application for acquisition
26 or replacement.

27 (c) If required by the department, the applicant shall pay

1 \$1,000.00 for a certificate of need application that receives
2 expedited processing at the request of the applicant.

3 (d) The department shall charge a fee of \$500.00 to review any
4 letter of intent requesting or resulting in a waiver from
5 certificate of need review and any amendment request to an approved
6 certificate of need.

7 (e) A health facility or agency that offers certificate of
8 need covered clinical services shall pay \$100.00 for each
9 certificate of need approved covered clinical service as part of
10 the certificate of need annual survey at the time of submission of
11 the survey data.

12 (f) The department ~~of community health~~ shall use the fees
13 collected under this subsection only to fund the certificate of
14 need program. Funds remaining in the certificate of need program at
15 the end of the fiscal year shall not lapse to the general fund but
16 shall remain available to fund the certificate of need program in
17 subsequent years.

18 ~~(4) If licensure is for more than 1 year, the fees described~~
19 ~~in subsection (1) are multiplied by the number of years for which~~
20 ~~the license is issued, and the total amount of the fees shall be~~
21 ~~collected in the year in which the license is issued.~~ **A LICENSE**
22 **ISSUED UNDER THIS PART IS EFFECTIVE FOR NO LONGER THAN 1 YEAR AFTER**
23 **THE DATE OF ISSUANCE.**

24 (5) Fees described in this section are payable to the
25 department at the time an application for a license, permit, or
26 certificate is submitted. If an application for a license, permit,
27 or certificate is denied or if a license, permit, or certificate is

1 revoked before its expiration date, the department shall not refund
2 fees paid to the department.

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

8 ~~—— (7) The department may charge a fee to recover the cost of~~
9 ~~purchase or production and distribution of proficiency evaluation~~
10 ~~samples that are supplied to clinical laboratories under section~~
11 ~~20521(3).~~

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

16 (7) ~~(9)~~ The cost of licensure activities shall be supported by
17 license fees.

18 (8) ~~(10)~~ The application fee for a waiver under section 21564
19 is \$200.00 plus \$40.00 per hour for the professional services and
20 travel expenses directly related to processing the application. The
21 travel expenses shall be calculated in accordance with the state
22 standardized travel regulations of the department of technology,
23 management, and budget in effect at the time of the travel.

24 (9) ~~(11)~~ An applicant for licensure or renewal of licensure
25 under part 209 shall pay the applicable fees set forth in part 209.

26 (10) ~~(12)~~ Except as otherwise provided in this section, the
27 fees and assessments collected under this section shall be

1 deposited in the state treasury, to the credit of the general fund.
 2 The department may use the unreserved fund balance in fees and
 3 assessments for the criminal history check program required under
 4 this article.

5 (11) ~~(13)~~—The quality assurance assessment collected under
 6 subsection (1)(g) and all federal matching funds attributed to that
 7 assessment shall be used only for the following purposes and under
 8 the following specific circumstances:

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

27 (b) Except as otherwise provided under subdivision (c),

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

9 (c) Within 30 days after September 30, 2005, the department
10 shall submit an application to the federal ~~centers for medicare and~~
11 ~~medicaid services~~**CENTERS FOR MEDICARE AND MEDICAID SERVICES** to
12 request a waiver pursuant ~~to~~**ACCORDING** to 42 CFR 433.68(e) to
13 implement this subdivision as follows:

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

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

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

25 (d) Beginning May 10, 2002, the department of ~~community health~~
26 shall increase the per diem nursing home ~~medicaid~~**MEDICAID**
27 reimbursement rates for the balance of that year. For each

1 subsequent year in which the quality assurance assessment is
2 assessed and collected, the department ~~of community health~~ shall
3 maintain the ~~medicaid~~-**MEDICAID** nursing home reimbursement payment
4 increase financed by the quality assurance assessment.

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

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

17 (g) The ~~medicaid~~-**MEDICAID** nursing home quality assurance
18 assessment fund is established in the state treasury. The
19 department ~~of community health~~ shall deposit the revenue raised
20 through the quality assurance assessment with the state treasurer
21 for deposit in the ~~medicaid~~-**MEDICAID** nursing home quality assurance
22 assessment fund.

23 (h) The department ~~of community health~~ shall not implement
24 this subsection in a manner that conflicts with 42 USC 1396b(w).

25 (i) The quality assurance assessment collected under
26 subsection (1)(g) shall be prorated on a quarterly basis for any
27 licensed beds added to or subtracted from a nursing home or

1 hospital long-term care unit since the immediately preceding July
2 1. Any adjustments in payments are due on the next quarterly
3 installment due date.

4 (j) In each fiscal year governed by this subsection, ~~medicaid~~
5 **MEDICAID** reimbursement rates shall not be reduced below the
6 ~~medicaid~~**MEDICAID** reimbursement rates in effect on April 1, 2002 as
7 a direct result of the quality assurance assessment collected under
8 subsection (1)(g).

9 (k) The state retention amount of the quality assurance
10 assessment collected ~~pursuant to~~**UNDER** subsection (1)(g) shall be
11 equal to 13.2% of the federal funds generated by the nursing homes
12 and hospital long-term care units quality assurance assessment,
13 including the state retention amount. The state retention amount
14 shall be appropriated each fiscal year to the department ~~of~~
15 ~~community health~~ to support ~~medicaid~~**MEDICAID** expenditures for
16 long-term care services. These funds shall offset an identical
17 amount of general fund/general purpose revenue originally
18 appropriated for that purpose.

19 (l) Beginning October 1, ~~2015,~~**2019**, the department shall no
20 longer assess or collect the quality assurance assessment or apply
21 for federal matching funds. The quality assurance assessment
22 collected under subsection (1)(g) shall no longer be assessed or
23 collected after September 30, 2011, in the event that the quality
24 assurance assessment is not eligible for federal matching funds.
25 Any portion of the quality assurance assessment collected from a
26 nursing home or hospital long-term care unit that is not eligible
27 for federal matching funds shall be returned to the nursing home or

1 hospital long-term care unit.

2 (12) ~~(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~~ **MEDICAID** reimbursement
8 rate increases as provided for in subdivision (c).

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

17 (c) Beginning October 1, 2002, the department ~~of community~~
18 ~~health~~ shall increase the hospital ~~medicaid~~ **MEDICAID** reimbursement
19 rates for the balance of that year. For each subsequent year in
20 which the quality assurance assessment is assessed and collected,
21 the department ~~of community health~~ shall maintain the hospital
22 ~~medicaid~~ **MEDICAID** reimbursement rate increase financed by the
23 quality 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~~ **ENSURE** 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 that
4 the assessment and penalty are not paid up to a maximum of 50% of
5 the assessment. The department ~~of community health~~ may also refer
6 for collection to the department of treasury past due amounts
7 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~~ **MEDICAID** hospital inpatient DRG and outpatient
16 reimbursement rates and disproportionate share hospital and
17 graduate medical education payments are not below the level of
18 rates and payments in effect on April 1, 2002 as a direct result of
19 the quality assurance assessment collected under subsection (1)(h),
20 except as 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, 2011 in the event that the quality assurance
24 assessment is not eligible for federal matching funds. Any portion
25 of the quality assurance assessment collected from a hospital that
26 is not eligible for federal matching funds shall be returned to the
27 hospital.

1 (i) The state retention amount of the quality assurance
2 assessment collected ~~pursuant to~~ **UNDER** subsection (1)(h) shall be
3 equal to 13.2% of the federal funds generated by the hospital
4 quality assurance assessment, including the state retention amount.
5 **IN THE FISCAL YEAR ENDING SEPTEMBER 30, 2016, THERE IS A 1-TIME**
6 **ADDITIONAL RETENTION AMOUNT OF UP TO \$92,856,100.00.** The state
7 retention percentage shall be applied proportionately to each
8 hospital quality assurance assessment program to determine the
9 retention amount for each program. The state retention amount shall
10 be appropriated each fiscal year to the department ~~of community~~
11 ~~health~~ to support ~~medicaid~~ **MEDICAID** expenditures for hospital
12 services and therapy. These funds shall offset an identical amount
13 of general fund/general purpose revenue originally appropriated for
14 that purpose.

15 (13) **THE DEPARTMENT MAY ESTABLISH A QUALITY ASSURANCE**
16 **ASSESSMENT TO INCREASE AMBULANCE REIMBURSEMENT AS FOLLOWS:**

17 (A) **THE QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER THIS**
18 **SUBSECTION SHALL BE USED TO PROVIDE REIMBURSEMENT TO MEDICAID**
19 **AMBULANCE PROVIDERS. THE DEPARTMENT MAY PROMULGATE RULES TO PROVIDE**
20 **THE STRUCTURE OF THE QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER**
21 **THIS SUBSECTION AND THE LEVEL OF THE ASSESSMENT.**

22 (B) **THE DEPARTMENT SHALL IMPLEMENT THIS SUBSECTION IN A MANNER**
23 **THAT COMPLIES WITH FEDERAL REQUIREMENTS NECESSARY TO ENSURE THAT**
24 **THE QUALITY ASSURANCE ASSESSMENT QUALIFIES FOR FEDERAL MATCHING**
25 **FUNDS.**

26 (C) **THE TOTAL ANNUAL COLLECTIONS BY THE DEPARTMENT UNDER THIS**
27 **SUBSECTION SHALL NOT EXCEED \$20,000,000.00.**

1 (D) THE QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER THIS
 2 SUBSECTION SHALL NOT BE COLLECTED AFTER OCTOBER 1, 2019. THE
 3 QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER THIS SUBSECTION SHALL
 4 NO LONGER BE COLLECTED OR ASSESSED IF THE QUALITY ASSURANCE
 5 ASSESSMENT AUTHORIZED UNDER THIS SUBSECTION IS NOT ELIGIBLE FOR
 6 FEDERAL MATCHING FUNDS.

7 (14) ~~(15)~~The quality assurance assessment provided for under
 8 this section is a tax that is levied on a health facility or
 9 agency.

10 (15) ~~(16)~~As used in this section, ~~"medicaid"~~ "MEDICAID" means
 11 that term as defined in section 22207.

12 Sec. 20501. (1) As used in this part, ~~÷~~ "LABORATORY" MEANS A
 13 FACILITY FOR THE BIOLOGICAL, MICROBIOLOGICAL, SEROLOGICAL,
 14 CHEMICAL, IMMUNOHEMATOLOGICAL, HEMATOLOGICAL, BIOPHYSICAL,
 15 CYTOLOGICAL, PATHOLOGICAL, OR OTHER EXAMINATION OF MATERIALS
 16 DERIVED FROM THE HUMAN BODY FOR THE PURPOSE OF PROVIDING
 17 INFORMATION FOR THE DIAGNOSIS, PREVENTION, OR TREATMENT OF ANY
 18 DISEASE OR IMPAIRMENT OF, OR THE ASSESSMENT OF THE HEALTH OF, HUMAN
 19 BEINGS.

20 ~~—— (a) "Laboratory director" means the individual responsible for~~
 21 ~~administration of the technical and scientific operation of a~~
 22 ~~clinical laboratory, including the supervision of procedures and~~
 23 ~~reporting of findings.~~

24 ~~—— (b) "Owner" means a person who owns and controls a clinical~~
 25 ~~laboratory.~~

26 (2) In addition, article 1 contains general definitions and
 27 principles of construction applicable to all articles in this code.

1 and part 201 contains definitions applicable to this part.

2 Sec. 20521. ~~(1) The owner, laboratory director, and governing~~
3 ~~body of a clinical laboratory are responsible for the operation of~~
4 ~~the clinical laboratory.~~

5 ~~(2) The laboratory director is responsible for the making and~~
6 ~~keeping of an accurate record for each specimen examined and~~
7 ~~procedure followed.~~

8 ~~(3) A clinical laboratory shall analyze test samples submitted~~
9 ~~by the department and report to the department on the results of~~
10 ~~the analyses, except that proficiency evaluation programs of~~
11 ~~recognized professional organizations may be acceptable to the~~
12 ~~department in lieu thereof. The analyses and reports may be~~
13 ~~considered by the department in taking action under section 20165~~
14 ~~or 20525.~~ **ONLY A PHYSICIAN, DENTIST, OR OTHER PERSON AUTHORIZED BY**
15 **LAW CAN ORDER A LABORATORY TEST THAT HAS BEEN CLASSIFIED BY THE**
16 **FOOD AND DRUG ADMINISTRATION AS MODERATE OR HIGH COMPLEXITY. A**
17 **LABORATORY TEST THAT IS CLASSIFIED BY THE FOOD AND DRUG**
18 **ADMINISTRATION AS WAIVED DOES NOT REQUIRE AN ORDER.**

19 Sec. 20551. (1) A laboratory or other place where live
20 bacteria, fungi, mycoplasma, parasites, viruses, or other
21 microorganisms of a pathogenic nature are handled, cultivated,
22 sold, given away, or shipped from or to or where recombinant
23 deoxyribonucleic acid research is done shall be registered with the
24 department, and a registration number shall be issued to each place
25 registered. An application for a registration number shall be made
26 by the person in charge of the laboratory or other place where the
27 pathogens are handled or where recombinant deoxyribonucleic acid

1 research is done. The registration number is valid for 1 year and
2 may be renewed upon application to the department.

3 ~~—— (2) A clinical laboratory licensed in microbiology under
4 sections 20501 to 20525 is registered for purposes of this section
5 and section 20552, and its license number shall be used as its
6 registration number.~~

7 (2) ~~(3)~~ As used in sections 20551 **THIS SECTION** and **SECTION**
8 20552, "handled", "cultivated", or "shipped" does not include the
9 collection of specimens, the initial inoculation of specimens into
10 transport media or culture media, or the shipment to registered
11 laboratories, but does include any additional work performed on
12 cultivated pathogenic microorganisms or any recombinant
13 deoxyribonucleic acid research is done.

14 Enacting section 1. Sections 20511, 20515, and 20525 of the
15 public health code, 1978 PA 368, MCL 333.20511, 333.20515, and
16 333.20525, are repealed.

17 Enacting section 2. This amendatory act takes effect October
18 1, 2015.