

**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**

1 **BASIS** upon determining that the applicant has complied with this  
2 part and rules promulgated under this part. A licensee shall  
3 prominently display the license while it is in effect.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~prevention, or treatment of disease or the assessment of a~~  
2 ~~medical condition by the microbiological, serological,~~  
3 ~~histological, hematological, immunohematological, biophysical,~~  
4 ~~cytological, pathological, or biochemical examination of~~  
5 ~~materials derived from the human body, except as provided in~~  
6 ~~section 20507.~~

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

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

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

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

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

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

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

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

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

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

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

12           (E) ~~(f)~~—A home for the aged.

13           (F) ~~(g)~~—A hospital.

14           (G) ~~(h)~~—A nursing home.

15           (H) ~~(i)~~—A hospice.

16           (I) ~~(j)~~—A hospice residence.

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

20           (2) "Health maintenance organization" means that term as  
21 defined in section 3501 of the insurance code of 1956, 1956 PA  
22 218, MCL 500.3501.

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

1 Home for the aged includes a supervised personal care facility  
2 for 20 or fewer individuals 60 years of age or older if the  
3 facility is operated in conjunction with and as a distinct part  
4 of a licensed nursing home. Home for the aged does not include an  
5 area excluded from this definition by section 17(3) of the  
6 continuing care community disclosure act, **2014 PA 448**, MCL  
7 554.917.

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

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

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

25 Sec. 20145. (1) Before contracting for and initiating a  
26 construction project involving new construction, additions,  
27 modernizations, or conversions of a health facility or agency

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

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

12 (3) If a construction project requires a construction permit  
13 under subsection (1) or (2), but does not require a certificate  
14 of need under part 222, the department shall require the  
15 applicant to submit information considered necessary by the  
16 department to assure that the capital expenditure for the project  
17 is not a covered capital expenditure as defined in section  
18 22203(9).

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

24 (a) A short description of the reason for the project and  
25 the funding source.

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

1 (c) The estimated resulting increase or decrease in annual  
2 operating costs.

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

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

5 (5) The information filed under subsection (4) shall be made  
6 publicly available by the department by the same methods used to  
7 make information about certificate of need applications publicly  
8 available.

9 (6) The review and approval of architectural plans and  
10 narrative shall require that the proposed construction project is  
11 designed and constructed in accord with applicable statutory and  
12 other regulatory requirements. In performing a construction  
13 permit review for a health facility or agency under this section,  
14 the department shall, at a minimum, apply the standards contained  
15 in the document entitled "Minimum Design Standards for Health  
16 Care Facilities in Michigan" published by the department and  
17 dated ~~March 1998.~~ **JULY 2007**. The standards are incorporated by  
18 reference for purposes of this subsection. The department may  
19 promulgate rules that are more stringent than the standards if  
20 necessary to protect the public health, safety, and welfare.

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

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

27 (9) Upon request by the person initiating a construction



1 project, the department may review and issue a construction  
2 permit to a construction project that is not subject to  
3 subsection (1) or (2) if the department determines that the  
4 review will promote the public health, safety, and welfare.

5 (10) The department shall assess a fee for each review  
6 conducted under this section. The fee is .5% of the first  
7 \$1,000,000.00 of capital expenditure and .85% of any amount over  
8 \$1,000,000.00 of capital expenditure, up to a maximum of  
9 \$60,000.00.

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

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

1 a 14-day period to observe actual operations outside of the  
2 survey process before the trainee begins oversight  
3 responsibilities.

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

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

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

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

16 (4) A member of a survey team shall not be employed by a  
17 licensed nursing home or a nursing home management company doing  
18 business in this state at the time of conducting a survey under  
19 this section. The department shall not assign an individual to be  
20 a member of a survey team for purposes of a survey, evaluation,  
21 or consultation visit at a nursing home in which he or she was an  
22 employee within the preceding 3 years.

23 (5) Representatives from all nursing home provider  
24 organizations and the state long-term care ombudsman or his or  
25 her designee shall be invited to participate in the planning  
26 process for the joint provider and surveyor training sessions.  
27 The department shall include at least 1 representative from

1 nursing home provider organizations that do not own or operate a  
2 nursing home representing 30 or more nursing homes statewide in  
3 internal surveyor group quality assurance training provided for  
4 the purpose of general clarification and interpretation of  
5 existing or new regulatory requirements and expectations.

6 (6) The department shall make available online the general  
7 civil service position description related to the required  
8 qualifications for individual surveyors. The department shall use  
9 the required qualifications to hire, educate, develop, and  
10 evaluate surveyors.

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

17 ~~(8) Except as otherwise provided in this section and section~~  
18 ~~20155a, the department shall make at least a biennial visit to~~  
19 ~~each licensed clinical laboratory, each nursing home, and each~~  
20 ~~hospice residence for the purposes of survey, evaluation, and~~  
21 ~~consultation.~~ The department shall semiannually provide for joint  
22 training with nursing home surveyors and providers on at least 1  
23 of the 10 most frequently issued federal citations in this state  
24 during the past calendar year. The department shall develop a  
25 protocol for the review of citation patterns compared to regional  
26 outcomes and standards and complaints regarding the nursing home  
27 survey process. The review will be included in the report

## House Bill No. 4447 as amended May 27, 2015

1 required under subsection (20). Except as otherwise provided in  
 2 this subsection, beginning with his or her first full relicensure  
 3 period after June 20, 2000, each member of a department nursing  
 4 home survey team who is a health professional licensee under  
 5 article 15 shall earn not less than 50% of his or her required  
 6 continuing education credits, if any, in geriatric care. If a  
 7 member of a nursing home survey team is a pharmacist licensed  
 8 under article 15, he or she shall earn not less than 30% of his  
 9 or her required continuing education credits in geriatric care.

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

18 (a) Evidence that it is currently fully accredited by a body  
 19 with expertise in ~~hospital accreditation whose hospital~~  
 20 ~~accreditations are~~ **THE HEALTH FACILITY OR AGENCY TYPE AND THE**  
 21 **ACCREDITING ORGANIZATION IS** accepted by the United States  
 22 ~~department of health and human services~~ **DEPARTMENT OF HEALTH AND**  
 23 **HUMAN SERVICES** for purposes of section 1865 of part [e E] of title  
 24 XVIII of the social security act, 42 USC 1395bb.

25 (b) A copy of the most recent accreditation report, ~~for the~~  
 26 ~~hospital~~ **OR EXECUTIVE SUMMARY**, issued by a body described in  
 27 subdivision (a), and the ~~hospital's~~ **HEALTH FACILITY'S OR AGENCY'S**

1 responses to the accreditation report **IS SUBMITTED TO THE**  
 2 **DEPARTMENT AT LEAST 30 DAYS FROM LICENSE RENEWAL. SUBMISSION OF**  
 3 **AN EXECUTIVE SUMMARY DOES NOT PREVENT OR PROHIBIT THE DEPARTMENT**  
 4 **FROM REQUESTING THE ENTIRE ACCREDITATION REPORT IF THE DEPARTMENT**  
 5 **CONSIDERS IT NECESSARY.**

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

10 (10) Except as provided in subsection (14), accreditation  
 11 information provided to the department under subsection (9) is  
 12 confidential, is not a public record, and is not subject to court  
 13 subpoena. The department shall use the accreditation information  
 14 only as provided in this section and ~~shall return the~~  
 15 ~~accreditation information to the hospital within a reasonable~~  
 16 ~~time~~ **PROPERLY DESTROY THE DOCUMENTATION** after a decision on the  
 17 waiver request is made.

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

1 following:

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

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

9 ~~—— (c) Deny **DENY** the waiver request and conduct the visits~~  
 10 ~~required under subsection (9). **DENIAL OF A WAIVER REQUEST BY THE**~~  
 11 ~~**DEPARTMENT IS NOT SUBJECT TO APPEAL.**~~

12 (12) This section does not prohibit the department from  
 13 citing a violation of this part during a survey, conducting  
 14 investigations or inspections according to section 20156, or  
 15 conducting surveys of health facilities or agencies for the  
 16 purpose of complaint investigations or federal certification.  
 17 This section does not prohibit the bureau of fire services  
 18 created in section 1b of the fire prevention code, 1941 PA 207,  
 19 MCL 29.1b, from conducting annual surveys of hospitals, nursing  
 20 homes, and county medical care facilities.

21 (13) At the request of a health facility or agency, the  
 22 department may conduct a consultation engineering survey of a  
 23 health facility and provide professional advice and consultation  
 24 regarding health facility construction and design. A health  
 25 facility or agency may request a voluntary consultation survey  
 26 under this subsection at any time between licensure surveys. The  
 27 fees for a consultation engineering survey are the same as the

1 fees established for waivers under section ~~20161(10)~~.**20161(8)** .

2           (14) If the department determines that substantial  
3 noncompliance with licensure standards exists or that  
4 deficiencies that represent a threat to public safety or patient  
5 care exist based on a review of an accreditation report submitted  
6 under subsection (9)(b), the department shall prepare a written  
7 summary of the substantial noncompliance or deficiencies and the  
8 ~~hospital's~~**HEALTH FACILITY'S OR AGENCY'S** response to the  
9 department's determination. The department's written summary and  
10 the ~~hospital's~~**HEALTH FACILITY'S OR AGENCY'S** response are public  
11 documents.

12           (15) The department or a local health department shall  
13 conduct investigations or inspections, other than inspections of  
14 financial records, of a county medical care facility, home for  
15 the aged, nursing home, or hospice residence without prior notice  
16 to the health facility or agency. An employee of a state agency  
17 charged with investigating or inspecting the health facility or  
18 agency or an employee of a local health department who directly  
19 or indirectly gives prior notice regarding an investigation or an  
20 inspection, other than an inspection of the financial records, to  
21 the health facility or agency or to an employee of the health  
22 facility or agency, is guilty of a misdemeanor. Consultation  
23 visits that are not for the purpose of annual or follow-up  
24 inspection or survey may be announced.

25           (16) The department shall maintain a record indicating  
26 whether a visit and inspection is announced or unannounced.  
27 Survey findings gathered at each health facility or agency during

1 each visit and inspection, whether announced or unannounced,  
2 shall be taken into account in licensure decisions.

3 (17) The department shall require periodic reports and a  
4 health facility or agency shall give the department access to  
5 books, records, and other documents maintained by a health  
6 facility or agency to the extent necessary to carry out the  
7 purpose of this article and the rules promulgated under this  
8 article. The department shall not divulge or disclose the  
9 contents of the patient's clinical records in a manner that  
10 identifies an individual except under court order. The department  
11 may copy health facility or agency records as required to  
12 document findings. Surveyors shall use electronic resident  
13 information, whenever available, as a source of survey-related  
14 data and shall request facility assistance to access the system  
15 to maximize data export.

16 (18) The department may delegate survey, evaluation, or  
17 consultation functions to another state agency or to a local  
18 health department qualified to perform those functions. ~~However,~~  
19 ~~the~~ **THE** department shall not delegate survey, evaluation, or  
20 consultation functions to a local health department that owns or  
21 operates a hospice or hospice residence licensed under this  
22 article. The delegation shall be by cost reimbursement contract  
23 between the department and the state agency or local health  
24 department. Survey, evaluation, or consultation functions shall  
25 not be delegated to nongovernmental agencies, except as provided  
26 in this section. ~~The department may accept voluntary inspections~~  
27 ~~performed by an accrediting body with expertise in clinical~~



1 ~~laboratory accreditation under part 205 if the accrediting body~~  
2 ~~utilizes forms acceptable to the department, applies the same~~  
3 ~~licensing standards as applied to other clinical laboratories,~~  
4 ~~and provides the same information and data usually filed by the~~  
5 ~~department's own employees when engaged in similar inspections or~~  
6 ~~surveys.~~ The voluntary inspection described in this subsection  
7 shall be agreed upon by both the licensee and the department.

8 (19) If, upon investigation, the department or a state  
9 agency determines that an individual licensed to practice a  
10 profession in this state has violated the applicable licensure  
11 statute or the rules promulgated under that statute, the  
12 department, state agency, or local health department shall  
13 forward the evidence it has to the appropriate licensing agency.

14 (20) The department may consolidate all information provided  
15 for any report required under this section and section 20155a  
16 into a single report. The department shall report to the  
17 appropriations subcommittees, the senate and house of  
18 representatives standing committees having jurisdiction over  
19 issues involving senior citizens, and the fiscal agencies on  
20 March 1 of each year on the initial and follow-up surveys  
21 conducted on all nursing homes in this state. The report shall  
22 include all of the following information:

23 (a) The number of surveys conducted.

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

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

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

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

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

5 (g) The number and percentage of citations disputed through  
6 informal dispute resolution and independent informal dispute  
7 resolution.

8 (h) The number and percentage of citations overturned or  
9 modified, or both.

10 (i) The review of citation patterns developed under  
11 subsection (8).

12 (j) Implementation of the clinical process guidelines and  
13 the impact of the guidelines on resident care.

14 (k) Information regarding the progress made on implementing  
15 the administrative and electronic support structure to  
16 efficiently coordinate all nursing home licensing and  
17 certification functions.

18 (l) The number of annual standard surveys of nursing homes  
19 that were conducted during a period of open survey or enforcement  
20 cycle.

21 (m) The number of abbreviated complaint surveys that were  
22 not conducted on consecutive surveyor workdays.

23 (n) The percent of all form CMS-2567 reports of findings  
24 that were released to the nursing home within the 10-working-day  
25 requirement.

26 (o) The percent of provider notifications of acceptance or  
27 rejection of a plan of correction that were released to the

1 nursing home within the 10-working-day requirement.

2 (p) The percent of first revisits that were completed within  
3 60 days from the date of survey completion.

4 (q) The percent of second revisits that were completed  
5 within 85 days from the date of survey completion.

6 (r) The percent of letters of compliance notification to the  
7 nursing home that were released within 10 working days of the  
8 date of the completion of the revisit.

9 (s) A summary of the discussions from the meetings required  
10 in subsection (24).

11 (t) The number of nursing homes that participated in a  
12 recognized quality improvement program as described under section  
13 20155a(3).

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

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

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

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

27 (22) Subject to subsection (23), a clarification work group

1 comprised of the department in consultation with a nursing home  
2 resident or a member of a nursing home resident's family, nursing  
3 home provider groups, the American ~~medical directors association,~~  
4 **MEDICAL DIRECTORS ASSOCIATION**, the state long-term care  
5 ombudsman, and the federal ~~centers for medicare and medicaid~~  
6 ~~services~~ **CENTERS FOR MEDICARE AND MEDICAID SERVICES** shall clarify  
7 the following terms as those terms are used in title XVIII and  
8 title XIX and applied by the department to provide more  
9 consistent regulation of nursing homes in this state:

10 (a) Immediate jeopardy.

11 (b) Harm.

12 (c) Potential harm.

13 (d) Avoidable.

14 (e) Unavoidable.

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

17 (a) Specifically, the term "immediate jeopardy" means a  
18 situation in which immediate corrective action is necessary  
19 because the nursing home's noncompliance with 1 or more  
20 requirements of participation has caused or is likely to cause  
21 serious injury, harm, impairment, or death to a resident  
22 receiving care in a nursing home.

23 (b) The likelihood of immediate jeopardy is reasonably  
24 higher if there is evidence of a flagrant failure by the nursing  
25 home to comply with a clinical process guideline adopted under  
26 subsection (25) than if the nursing home has substantially and  
27 continuously complied with those guidelines. If federal

1 regulations and guidelines are not clear, and if the clinical  
2 process guidelines have been recognized, a process failure giving  
3 rise to an immediate jeopardy may involve an egregious widespread  
4 or repeated process failure and the absence of reasonable efforts  
5 to detect and prevent the process failure.

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

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

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

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

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

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

25 (d) The existence of 1 or more of the factors described in  
26 subdivision (c), and especially the existence of 3 or more of  
27 those factors simultaneously, may lead to a conclusion that the

1 situation is one in which the nursing home's practice makes  
2 adverse events likely to occur if immediate intervention is not  
3 undertaken, and therefore constitutes immediate jeopardy. If none  
4 of the factors described in subdivision (c) is present, the  
5 situation may involve harm or potential harm that is not  
6 immediate jeopardy.

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

15 (f) For purposes of subdivision (e), in determining whether  
16 a negative outcome is of limited consequence, if the "state  
17 operations manual" or "the guidance to surveyors" published by  
18 the federal ~~centers for medicare and medicaid services~~ **CENTERS**  
19 **FOR MEDICARE AND MEDICAID SERVICES** does not provide specific  
20 guidance, the department may consider whether most people in  
21 similar circumstances would feel that the damage was of such  
22 short duration or impact as to be inconsequential or trivial. In  
23 such a case, the consequence of a negative outcome may be  
24 considered more limited if it occurs in the context of overall  
25 procedural consistency with an accepted clinical process  
26 guideline adopted under subsection (25), as compared to a  
27 substantial inconsistency with or variance from the guideline.

1 (g) For purposes of subdivision (e), if the publications  
2 described in subdivision (f) do not provide specific guidance,  
3 the department may consider the degree of a nursing home's  
4 adherence to a clinical process guideline adopted under  
5 subsection (25) in considering whether the degree of compromise  
6 and future risk to the resident constitutes actual harm. The risk  
7 of significant compromise to the resident may be considered  
8 greater in the context of substantial deviation from the  
9 guidelines than in the case of overall adherence.

10 (h) To improve consistency and to avoid disputes over  
11 avoidable and unavoidable negative outcomes, nursing homes and  
12 survey agencies must have a common understanding of accepted  
13 process guidelines and of the circumstances under which it can  
14 reasonably be said that certain actions or inactions will lead to  
15 avoidable negative outcomes. If the "state operations manual" or  
16 "the guidance to surveyors" published by the federal ~~centers for~~  
17 ~~medicare and medicaid services~~ **CENTERS FOR MEDICARE AND MEDICAID**  
18 **SERVICES** is not specific, a nursing home's overall documentation  
19 of adherence to a clinical process guideline with a process  
20 indicator adopted under subsection (25) is relevant information  
21 in considering whether a negative outcome was avoidable or  
22 unavoidable and may be considered in the application of that  
23 term.

24 (24) The department shall conduct a quarterly meeting and  
25 invite appropriate stakeholders. Appropriate stakeholders shall  
26 include at least 1 representative from each nursing home provider  
27 organization that does not own or operate a nursing home

1 representing 30 or more nursing homes statewide, the state long-  
2 term care ombudsman or his or her designee, and any other  
3 clinical experts. Individuals who participate in these quarterly  
4 meetings, in conjunction with the department, may designate  
5 advisory workgroups to develop recommendations on the discussion  
6 topics that should include, at a minimum, all of the following:

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

10 (b) Seeking quality improvement to the survey and  
11 enforcement process, including clarifications to process-related  
12 policies and protocols that include, but are not limited to, all  
13 of the following:

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

15 (ii) Enhanced communication between regulators, surveyors,  
16 providers, and consumers.

17 (iii) Ensuring fair enforcement and dispute resolution by  
18 identifying methods or strategies that may resolve identified  
19 problems or concerns.

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

22 (i) Applying regulations in a consistent manner and  
23 evaluating changes that have been implemented to resolve  
24 identified problems and concerns.

25 (ii) Providing consumers with information regarding changes  
26 in policy and interpretation.

27 (iii) Identifying positive and negative trends and factors



1 contributing to those trends in the areas of resident care,  
2 deficient practices, and enforcement.

3 (d) Clinical process guidelines.

4 (25) Subject to subsection (27), the department shall  
5 develop and adopt clinical process guidelines. The department  
6 shall establish and adopt clinical process guidelines and  
7 compliance protocols with outcome measures for all of the  
8 following areas and for other topics where the department  
9 determines that clarification will benefit providers and  
10 consumers of long-term care:

11 (a) Bed rails.

12 (b) Adverse drug effects.

13 (c) Falls.

14 (d) Pressure sores.

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

17 (f) Pain management.

18 (g) Depression and depression pharmacotherapy.

19 (h) Heart failure.

20 (i) Urinary incontinence.

21 (j) Dementia.

22 (k) Osteoporosis.

23 (l) Altered mental states.

24 (m) Physical and chemical restraints.

25 (n) Culture-change principles, person-centered caring, and  
26 self-directed care.

27 (26) The department shall biennially review and update all

1 clinical process guidelines as needed and shall continue to  
2 develop and implement clinical process guidelines for topics that  
3 have not been developed from the list in subsection (25) and  
4 other topics identified as a result of the meetings required in  
5 subsection (24). The department shall consider recommendations  
6 from an advisory workgroup created under subsection (24) on  
7 clinical process guidelines. The department shall include  
8 training on new and revised clinical process guidelines in the  
9 joint provider and surveyor training sessions as those clinical  
10 process guidelines are developed and revised.

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

19 (28) The department shall maintain the process by which the  
20 **DEPARTMENT** director ~~of the division of nursing home monitoring or~~  
21 his or her designee ~~or the director of the division of operations~~  
22 ~~or his or her designee~~ reviews and authorizes the issuance of a  
23 citation for immediate jeopardy or substandard quality of care  
24 before the statement of deficiencies is made final. The review  
25 shall be to assure that the applicable concepts, clinical process  
26 guidelines, and other tools contained in subsections (25) to (27)  
27 are being used consistently, accurately, and effectively. As used

1 in this subsection, "immediate jeopardy" and "substandard quality  
 2 of care" mean those terms as defined by the federal ~~centers for~~  
 3 ~~medicare and medicaid services~~. **CENTERS FOR MEDICARE AND MEDICAID**  
 4 **SERVICES**.

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

9 (30) The department shall instruct and train the surveyors  
 10 in the clinical process guidelines adopted under subsection (25)  
 11 in citing deficiencies.

12 (31) A nursing home shall post the nursing home's survey  
 13 report in a conspicuous place within the nursing home for public  
 14 review.

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

18 (33) As used in this section:

19 (a) "Consecutive days" means calendar days, but does not  
 20 include Saturday, Sunday, or state- or federally-recognized  
 21 holidays.

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

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

1 (d) "Title XIX" means title XIX of the social security act,  
2 42 USC 1396 to 1396w-5.

3 Sec. 20161. (1) The department shall assess fees and other  
4 assessments for health facility and agency licenses and  
5 certificates of need on an annual basis as provided in this  
6 article. ~~Except~~ **UNTIL OCTOBER 1, 2019, EXCEPT** as otherwise  
7 provided in this article, fees and assessments shall be paid as  
8 provided in the following schedule:

9 (a) Freestanding surgical  
10 outpatient facilities.....~~\$238.00~~ **\$500.00** per facility  
11 **LICENSE.**

12 (b) Hospitals.....~~\$8.28~~ **\$500.00 PER FACILITY**  
13 **LICENSE AND \$10.00** per  
14 licensed bed.

15 (c) Nursing homes, county  
16 medical care facilities, and  
17 hospital long-term care units.....~~\$2.20~~ **\$500.00 PER FACILITY**  
18 **LICENSE AND \$3.00** per  
19 licensed bed **OVER 100**  
20 **LICENSED BEDS.**

21 (d) Homes for the aged.....\$6.27 per licensed bed.

22 ~~(e) Clinical laboratories.....\$475.00 per laboratory.~~

23 **(E) HOSPICE AGENCIES.....\$500.00 PER AGENCY LICENSE.**

24 (f) Hospice residences.....~~\$200.00~~ **\$500.00** per  
25 **FACILITY survey, LICENSE**  
26 **and \$20.00** ~~\$5.00~~ per  
27 licensed bed.

28 (g) Subject to subsection

1 ~~(13)~~, **(11)**, quality assurance assessment  
 2 for nursing homes and hospital  
 3 long-term care units.....an amount resulting  
 4 in not more than 6%  
 5 of total industry  
 6 revenues.

7 (h) Subject to subsection

8 ~~(14)~~, **(12)**, quality assurance assessment  
 9 for hospitals.....at a fixed or variable  
 10 rate that generates  
 11 funds not more than the  
 12 maximum allowable under  
 13 the federal matching  
 14 requirements, after  
 15 consideration for the  
 16 amounts in subsection  
 17 ~~(14)(a)~~ **(12) (A)** and (i).

18 **(I) INITIAL LICENSURE**

19 **APPLICATION FEE FOR SUBDIVISIONS**

20 **(A), (B), (C), (E), AND (F).....\$2,000.00 PER INITIAL**  
 21 **LICENSE.**

22 (2) If a hospital requests the department to conduct a  
 23 certification survey for purposes of title XVIII or title XIX of  
 24 the social security act, the hospital shall pay a license fee  
 25 surcharge of \$23.00 per bed. As used in this subsection, "title  
 26 XVIII" and "title XIX" mean those terms as defined in section  
 27 20155.

28 (3) All of the following apply to the assessment under this

1 section for certificates of need:

2 (a) The base fee for a certificate of need is \$3,000.00 for  
3 each application. For a project requiring a projected capital  
4 expenditure of more than \$500,000.00 but less than \$4,000,000.00,  
5 an additional fee of \$5,000.00 is added to the base fee. For a  
6 project requiring a projected capital expenditure of  
7 \$4,000,000.00 or more but less than \$10,000,000.00, an additional  
8 fee of \$8,000.00 is added to the base fee. For a project  
9 requiring a projected capital expenditure of \$10,000,000.00 or  
10 more, an additional fee of \$12,000.00 is added to the base fee.

11 (b) In addition to the fees under subdivision (a), the  
12 applicant shall pay \$3,000.00 for any designated complex project  
13 including a project scheduled for comparative review or for a  
14 consolidated licensed health facility application for acquisition  
15 or replacement.

16 (c) If required by the department, the applicant shall pay  
17 \$1,000.00 for a certificate of need application that receives  
18 expedited processing at the request of the applicant.

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

23 (e) A health facility or agency that offers certificate of  
24 need covered clinical services shall pay \$100.00 for each  
25 certificate of need approved covered clinical service as part of  
26 the certificate of need annual survey at the time of submission  
27 of the survey data.

1 (f) The department ~~of community health~~ shall use the fees  
2 collected under this subsection only to fund the certificate of  
3 need program. Funds remaining in the certificate of need program  
4 at the end of the fiscal year shall not lapse to the general fund  
5 but shall remain available to fund the certificate of need  
6 program in subsequent years.

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

13 (5) Fees described in this section are payable to the  
14 department at the time an application for a license, permit, or  
15 certificate is submitted. If an application for a license,  
16 permit, or certificate is denied or if a license, permit, or  
17 certificate is revoked before its expiration date, the department  
18 shall not refund fees paid to the department.

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

24 ~~— (7) The department may charge a fee to recover the cost of~~  
25 ~~purchase or production and distribution of proficiency evaluation~~  
26 ~~samples that are supplied to clinical laboratories under section~~  
27 ~~20521(3).~~

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

5 (7) ~~(9)~~—The cost of licensure activities shall be supported  
6 by license fees.

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

14 (9) ~~(11)~~—An applicant for licensure or renewal of licensure  
15 under part 209 shall pay the applicable fees set forth in part  
16 209.

17 (10) ~~(12)~~—Except as otherwise provided in this section, the  
18 fees and assessments collected under this section shall be  
19 deposited in the state treasury, to the credit of the general  
20 fund. The department may use the unreserved fund balance in fees  
21 and assessments for the criminal history check program required  
22 under this article.

23 (11) ~~(13)~~—The quality assurance assessment collected under  
24 subsection (1)(g) and all federal matching funds attributed to  
25 that assessment shall be used only for the following purposes and  
26 under the following specific circumstances:

27 (a) The quality assurance assessment and all federal



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

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

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

6 (i) If the waiver is approved, the quality assurance  
7 assessment rate for a nursing home or hospital long-term care  
8 unit with less than 40 licensed beds or with the maximum number,  
9 or more than the maximum number, of licensed beds necessary to  
10 secure federal approval of the application is \$2.00 per  
11 ~~nonmedicare~~ **NON-MEDICARE** patient day of care provided within the  
12 immediately preceding year or a rate as otherwise altered on the  
13 application for the waiver to obtain federal approval. If the  
14 waiver is approved, for all other nursing homes and long-term  
15 care units the quality assurance assessment rate is to be  
16 calculated by dividing the total statewide maximum allowable  
17 assessment permitted under subsection (1)(g) less the total  
18 amount to be paid by the nursing homes and long-term care units  
19 with less than 40 or with the maximum number, or more than the  
20 maximum number, of licensed beds necessary to secure federal  
21 approval of the application by the total number of ~~nonmedicare~~  
22 **NON-MEDICARE** patient days of care provided within the immediately  
23 preceding year by those nursing homes and long-term care units  
24 with more than 39, but less than the maximum number of licensed  
25 beds necessary to secure federal approval. The quality assurance  
26 assessment, as provided under this subparagraph, shall be  
27 assessed in the first quarter after federal approval of the

1 waiver and shall be subsequently assessed on October 1 of each  
2 following year, and is payable on a quarterly basis, the first  
3 payment due 90 days after the date the assessment is assessed.

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

18 (d) Beginning May 10, 2002, the department ~~of community~~  
19 ~~health~~ shall increase the per diem nursing home ~~medicaid~~-**MEDICAID**  
20 reimbursement rates for the balance of that year. For each  
21 subsequent year in which the quality assurance assessment is  
22 assessed and collected, the department ~~of community health~~ shall  
23 maintain the ~~medicaid~~-**MEDICAID** nursing home reimbursement payment  
24 increase financed by the quality assurance assessment.

25 (e) The department ~~of community health~~ shall implement this  
26 section in a manner that complies with federal requirements  
27 necessary to ~~assure~~-**ENSURE** that the quality assurance assessment

1 qualifies for federal matching funds.

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

11 (g) The ~~medicaid~~-**MEDICAID** nursing home quality assurance  
12 assessment fund is established in the state treasury. The  
13 department of ~~community health~~ shall deposit the revenue raised  
14 through the quality assurance assessment with the state treasurer  
15 for deposit in the ~~medicaid~~-**MEDICAID** nursing home quality  
16 assurance assessment fund.

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

19 (i) The quality assurance assessment collected under  
20 subsection (1)(g) shall be prorated on a quarterly basis for any  
21 licensed beds added to or subtracted from a nursing home or  
22 hospital long-term care unit since the immediately preceding July  
23 1. Any adjustments in payments are due on the next quarterly  
24 installment due date.

25 (j) In each fiscal year governed by this subsection,  
26 ~~medicaid~~-**MEDICAID** reimbursement rates shall not be reduced below  
27 the ~~medicaid~~-**MEDICAID** reimbursement rates in effect on April 1,

1 2002 as a direct result of the quality assurance assessment  
2 collected under subsection (1)(g).

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

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

23 **(12)** ~~(14)~~—The quality assurance dedication is an earmarked  
24 assessment collected under subsection (1)(h). That assessment and  
25 all federal matching funds attributed to that assessment shall be  
26 used only for the following purpose and under the following  
27 specific circumstances:

1 (a) To maintain the increased ~~medicaid~~ **MEDICAID**  
2 reimbursement rate increases as provided for in subdivision (c).

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

11 (c) Beginning October 1, 2002, the department of ~~community~~  
12 ~~health~~ shall increase the hospital ~~medicaid~~ **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 hospital ~~medicaid~~ **MEDICAID** reimbursement rate  
17 increase financed by the quality assurance assessments.

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

22 (e) If a hospital fails to pay the assessment required by  
23 subsection (1)(h), the department of ~~community health~~ may assess  
24 the hospital a penalty of 5% of the assessment for each month  
25 that the assessment and penalty are not paid up to a maximum of  
26 50% of the assessment. The department of ~~community health~~ may  
27 also refer for collection to the department of treasury past due

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1 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

2 (f) The hospital quality assurance assessment fund is  
3 established in the state treasury. The department of ~~community~~  
4 ~~health~~ shall deposit the revenue raised through the quality  
5 assurance assessment with the state treasurer for deposit in the  
6 hospital quality assurance assessment fund.

7 (g) In each fiscal year governed by this subsection, the  
8 quality assurance assessment shall only be collected and expended  
9 if ~~medicaid~~ **MEDICAID** hospital inpatient DRG and outpatient  
10 reimbursement rates and disproportionate share hospital and  
11 graduate medical education payments are not below the level of  
12 rates and payments in effect on April 1, 2002 as a direct result  
13 of the quality assurance assessment collected under subsection  
14 (1)(h), except as provided in subdivision (h).

15 (h) The quality assurance assessment collected under  
16 subsection (1)(h) shall no longer be assessed or collected after  
17 September 30, 2011 in the event that the quality assurance  
18 assessment is not eligible for federal matching funds. Any  
19 portion of the quality assurance assessment collected from a  
20 hospital that is not eligible for federal matching funds shall be  
21 returned to the hospital.

22 (i) The state retention amount of the quality assurance  
23 assessment collected ~~pursuant to~~ **UNDER** subsection (1)(h) shall be  
24 equal to 13.2% of the federal funds generated by the hospital  
25 quality assurance assessment, including the state retention  
26 amount. **[IN THE FISCAL YEAR ENDING SEPTEMBER 30, 2016, THERE IS A 1-TIME  
ADDITIONAL RETENTION AMOUNT OF UP TO \$92,856,100.00.]** The state retention  
27 percentage shall be applied proportionately to each hospital quality assurance assessment

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1 program to determine the retention amount for each program. The  
 2 state retention amount shall be appropriated each fiscal year to  
 3 the department ~~of community health~~ to support ~~medicaid~~ **MEDICAID**  
 4 expenditures for hospital services and therapy. These funds shall  
 5 offset an identical amount of general fund/general purpose  
 6 revenue originally appropriated for that purpose.

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

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

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

**(C) THE TOTAL ANNUAL COLLECTIONS BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL NOT EXCEED \$6,000,000.00.**

**(D) THE QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER THIS SUBSECTION SHALL NOT BE COLLECTED AFTER OCTOBER 1, 2018. THE QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER THIS SUBSECTION SHALL NO LONGER BE COLLECTED OR ASSESSED IF THE QUALITY ASSURANCE ASSESSMENT AUTHORIZED UNDER THIS SUBSECTION IS NOT ELIGIBLE FOR FEDERAL MATCHING FUNDS.]**

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

10 **(15)]** ~~(16)~~—As used in this section, "~~medicaid~~"—"**MEDICAID**"  
 11 means 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,**  
 19 **HUMAN BEINGS.**

20 ~~—(a) "Laboratory director" means the individual responsible~~  
 21 ~~for 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



1 code. and part 201 contains definitions applicable to this part.

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

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

8       ~~(3) A clinical laboratory shall analyze test samples~~  
9 ~~submitted by the department and report to the department on the~~  
10 ~~results of the analyses, except that proficiency evaluation~~  
11 ~~programs of recognized professional organizations may be~~  
12 ~~acceptable to the department in lieu thereof. The analyses and~~  
13 ~~reports may be considered by the department in taking action~~  
14 ~~under section 20165 or 20525.~~ **ONLY A PHYSICIAN, DENTIST, OR OTHER**  
15 **PERSON AUTHORIZED BY LAW CAN ORDER A LABORATORY TEST THAT HAS**  
16 **BEEN CLASSIFIED BY THE FOOD AND DRUG ADMINISTRATION AS MODERATE**  
17 **OR HIGH COMPLEXITY. A LABORATORY TEST THAT IS CLASSIFIED BY THE**  
18 **FOOD AND DRUG 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  
24 the department, and a registration number shall be issued to each  
25 place registered. An application for a registration number shall  
26 be made by the person in charge of the laboratory or other place  
27 where the pathogens are handled or where recombinant

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

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

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

15 Enacting section 1. Sections 20511, 20515, and 20525 of the  
16 public health code, 1978 PA 368, MCL 333.20511, 333.20515, and  
17 333.20525, are repealed.

18 [Enacting section 2. This amendatory act takes effect October 1,  
19 2015. ]