

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5834

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20161 (MCL 333.20161), as amended by 2008 PA
173; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

- 7 (a) Freestanding surgical
8 outpatient facilities.....\$238.00 per facility.
9 (b) Hospitals.....\$8.28 per licensed bed.

1 (c) Nursing homes, county
2 medical care facilities, and
3 hospital long-term care units.....\$2.20 per licensed bed.

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

5 (e) Clinical laboratories.....\$475.00 per laboratory.

6 (f) Hospice residences.....\$200.00 per license
7 survey; and \$20.00 per
8 licensed bed.

9 (g) Subject to subsection
10 (13), quality assurance assessment
11 for nursing homes and hospital
12 long-term care units.....an amount resulting
13 in not more than 6%
14 of total industry
15 revenues.

16 (h) Subject to subsection
17 (14), quality assurance assessment
18 for hospitals.....at a fixed or variable
19 rate that generates
20 funds not more than the
21 maximum allowable under
22 the federal matching
23 requirements, after
24 consideration for the
25 amounts in subsection
26 (14)(a) and (i).

27 (2) If a hospital requests the department to conduct a
28 certification survey for purposes of title XVIII or title XIX of
29 the social security act, the hospital shall pay a license fee
30 surcharge of \$23.00 per bed. As used in this subsection, "title

1 XVIII" and "title XIX" mean those terms as defined in section
2 20155.

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

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

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

25 (6) The fee for a provisional license or temporary permit is
26 the same as for a license. A license may be issued at the
27 expiration date of a temporary permit without an additional fee

1 for the balance of the period for which the fee was paid if the
2 requirements for licensure are met.

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

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

11 (9) The cost of licensure activities shall be supported by
12 license fees.

13 (10) The application fee for a waiver under section 21564 is
14 \$200.00 plus \$40.00 per hour for the professional services and
15 travel expenses directly related to processing the application.
16 The travel expenses shall be calculated in accordance with the
17 state standardized travel regulations of the department of
18 management and budget in effect at the time of the travel.

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

22 (12) Except as otherwise provided in this section, the fees
23 and assessments collected under this section shall be deposited
24 in the state treasury, to the credit of the general fund. The
25 department may use the unreserved fund balance in fees and
26 assessments for the background check program required under this
27 article.

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

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

23 (b) Except as otherwise provided under subdivision (c),
24 beginning October 1, 2005, the quality assurance assessment is
25 based on the total number of patient days of care each nursing
26 home and hospital long-term care unit provided to nonmedicare
27 patients within the immediately preceding year and shall be

1 assessed at a uniform rate on October 1, 2005 and subsequently on
2 October 1 of each following year, and is payable on a quarterly
3 basis, the first payment due 90 days after the date the
4 assessment is assessed.

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

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

1 federal approval. The quality assurance assessment, as provided
2 under this subparagraph, shall be assessed in the first quarter
3 after federal approval of the waiver and shall be subsequently
4 assessed on October 1 of each following year, and is payable on a
5 quarterly basis, the first payment due 90 days after the date the
6 assessment is assessed.

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

20 (d) Beginning October 1, 2011, the department shall no
21 longer assess or collect the quality assurance assessment or
22 apply for federal matching funds.

23 (e) Beginning May 10, 2002, the department of community
24 health shall increase the per diem nursing home medicaid
25 reimbursement rates for the balance of that year. For each
26 subsequent year in which the quality assurance assessment is
27 assessed and collected, the department of community health shall

1 maintain the medicaid nursing home reimbursement payment increase
2 financed by the quality assurance assessment.

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

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

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

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

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

1 installment due date.

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

7 (l) In ~~each~~ fiscal year **2007-2008**, \$39,900,000.00 of the
8 quality assurance assessment collected pursuant to subsection
9 (1)(g) shall be appropriated to the department of community
10 health to support medicaid expenditures for long-term care
11 services. **THE STATE RETENTION AMOUNT OF THE QUALITY ASSURANCE**
12 **ASSESSMENT COLLECTED PURSUANT TO SUBSECTION (1)(G) FOR FISCAL**
13 **YEAR 2008-2009 SHALL BE \$41,473,500.00, AND FOR EACH SUBSEQUENT**
14 **FISCAL YEAR SHALL BE EQUAL TO 13.2% OF THE FEDERAL FUNDS**
15 **GENERATED BY THE NURSING HOMES AND HOSPITAL LONG-TERM CARE UNITS**
16 **QUALITY ASSURANCE ASSESSMENT, INCLUDING THE STATE RETENTION**
17 **AMOUNT. THE STATE RETENTION AMOUNT SHALL BE APPROPRIATED EACH**
18 **FISCAL YEAR TO THE DEPARTMENT OF COMMUNITY HEALTH TO SUPPORT**
19 **MEDICAID EXPENDITURES FOR LONG-TERM CARE SERVICES.** These funds
20 shall offset an identical amount of general fund/general purpose
21 revenue originally appropriated for that purpose.

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

27 (a) To maintain the increased medicaid reimbursement rate

1 increases as provided for in subdivision (c).

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

10 (c) Beginning October 1, 2002, the department of community
11 health shall increase the hospital medicaid reimbursement rates
12 for the balance of that year. For each subsequent year in which
13 the quality assurance assessment is assessed and collected, the
14 department of community health shall maintain the hospital
15 medicaid reimbursement rate increase financed by the quality
16 assurance assessments.

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

21 (e) If a hospital fails to pay the assessment required by
22 subsection (1)(h), the department of community health may assess
23 the hospital a penalty of 5% of the assessment for each month
24 that the assessment and penalty are not paid up to a maximum of
25 50% of the assessment. The department of community health may
26 also refer for collection to the department of treasury past due
27 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

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

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

14 (h) The quality assurance assessment collected under
15 subsection (1)(h) shall no longer be assessed or collected after
16 September 30, ~~2008, or 2011~~ in the event that the quality
17 assurance assessment is not eligible for federal matching funds.
18 Any portion of the quality assurance assessment collected from a
19 hospital that is not eligible for federal matching funds shall be
20 returned to the hospital.

21 ~~(i) In fiscal year 2005-2006, \$46,400,000.00 of the quality~~
22 ~~assurance assessment collected pursuant to subsection (1)(h)~~
23 ~~shall be appropriated to the department of community health to~~
24 ~~support medicaid expenditures for hospital services and therapy.~~
25 ~~In fiscal year 2006-2007, \$66,400,000.00 of the quality assurance~~
26 ~~assessment collected pursuant to subsection (1)(h) shall be~~
27 ~~appropriated to the department of community health to support~~

1 ~~medicaid expenditures for hospital services and therapy. Except~~
2 ~~as otherwise provided in this subdivision, in IN fiscal year~~
3 ~~2007-2008, \$66,400,000.00 \$98,850,000.00 of the quality assurance~~
4 ~~assessment collected pursuant to subsection (1)(h) shall be~~
5 ~~appropriated to the department of community health to support~~
6 ~~medicaid expenditures for hospital services and therapy. However,~~
7 ~~if the state receives approval from the centers for medicare and~~
8 ~~medicaid services to increase medicaid health maintenance~~
9 ~~organization hospital payment rates that increase medicaid~~
10 ~~payments to hospitals by \$120,000,000.00 or more in fiscal year~~
11 ~~2007-2008, then in fiscal year 2007-2008, \$81,400,000.00, instead~~
12 ~~of \$66,400,000.00, of the quality assurance assessment collected~~
13 ~~pursuant to subsection (1)(h) shall be appropriated to the~~
14 ~~department of community health to support medicaid expenditures~~
15 ~~for hospital services and therapy. THE STATE RETENTION AMOUNT OF~~
16 **THE QUALITY ASSURANCE ASSESSMENT COLLECTED PURSUANT TO SUBSECTION**
17 **(1)(H) FOR FISCAL YEAR 2008-2009 AND EACH SUBSEQUENT FISCAL YEAR**
18 **SHALL BE EQUAL TO 13.2% OF THE FEDERAL FUNDS GENERATED BY THE**
19 **HOSPITAL QUALITY ASSURANCE ASSESSMENT, INCLUDING THE STATE**
20 **RETENTION AMOUNT. THE STATE RETENTION PERCENTAGE SHALL BE APPLIED**
21 **PROPORTIONATELY TO EACH HOSPITAL QUALITY ASSURANCE ASSESSMENT**
22 **PROGRAM TO DETERMINE THE RETENTION AMOUNT FOR EACH PROGRAM. THE**
23 **STATE RETENTION AMOUNT SHALL BE APPROPRIATED EACH FISCAL YEAR TO**
24 **THE DEPARTMENT OF COMMUNITY HEALTH TO SUPPORT MEDICAID**
25 **EXPENDITURES FOR HOSPITAL SERVICES AND THERAPY.** These funds shall
26 offset an identical amount of general fund/general purpose
27 revenue originally appropriated for that purpose.

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

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

6 Enacting section 1. Section 1809 of 2008 PA 246 is repealed.