

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 576**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 20145 and 20161 (MCL 333.20145 and
333.20161), section 20145 as amended by 2002 PA 683 and section
20161 as amended by 2004 PA 393.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20145. (1) Before contracting for and initiating a
2 construction project involving new construction, additions,
3 modernizations, or conversions of a health facility or agency
4 with a capital expenditure of \$1,000,000.00 or more, a person
5 shall obtain a construction permit from the department. The
6 department shall not issue the permit under this subsection
7 unless the applicant holds a valid certificate of need if a
8 certificate of need is required for the project pursuant to
9 part 222.

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

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

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

18 (8) The department may waive the applicability of this
19 section to a construction project or alteration if the waiver
20 will not 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
23 permit to a construction project that is not subject to
24 subsection (1) or (2) if the department determines that the
25 review will promote the 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 ~~\$30,000.00~~ \$60,000.00.

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

7 Sec. 20161. (1) The department shall assess fees and other
8 assessments for health facility and agency licenses and
9 certificates of need on an annual basis as provided in this
10 article. Except as otherwise provided in this article, fees and
11 assessments shall be paid in accordance with the following
12 schedule:

13 (a) Freestanding surgical outpatient
14 facilities..... \$238.00 per facility.

15 (b) Hospitals..... \$8.28 per licensed bed.

16 (c) Nursing homes, county medical care
17 facilities, and hospital long-term care
18 units..... \$2.20 per licensed bed.

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

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

21 (f) Hospice residences..... \$200.00 per license
22 survey; and \$20.00 per
23 licensed bed.

24 (g) Subject to subsection (13),
25 quality assurance assessment for
26 nongovernmentally owned nursing homes
27 and hospital long-term care units..... an amount resulting in

1 not more than 6% of
2 total industry
3 revenues.

4 (h) Subject to subsection (14),
5 quality assurance assessment for
6 hospitals..... at a fixed or variable
7 rate that generates
8 funds not more than the
9 maximum allowable under
10 the federal matching
11 requirements, after
12 consideration for the
13 amounts in subsection
14 (14)(a) and (j).

15 (2) If a hospital requests the department to conduct a
16 certification survey for purposes of title XVIII or title XIX of
17 the social security act, the hospital shall pay a license fee
18 surcharge of \$23.00 per bed. As used in this subsection, "title
19 XVIII" and "title XIX" mean those terms as defined in section
20 20155.

21 (3) The base fee for a certificate of need is ~~-\$750.00~~
22 **\$1,500.00** for each application. For a project requiring a
23 projected capital expenditure of more than ~~-\$150,000.00~~
24 **\$500,000.00** but less than ~~-\$1,500,000.00~~ **\$4,000,000.00**, an
25 additional fee of ~~-\$2,000.00~~ **\$4,000.00** shall be added to the
26 base fee. For a project requiring a projected capital
27 expenditure of ~~-\$1,500,000.00~~ **\$4,000,000.00** or more, an

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1 additional fee of ~~-\$3,500.00~~ **\$7,000.00** shall be added to the
2 base fee. **[The department of community health shall use the fees
collected under this subsection only to fund the certificate of need
program. Funds remaining in the certificate of need program at the end
of the fiscal year shall not lapse to the general fund but shall remain
available to fund the certificate of need program in subsequent years.]**

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

7 (5) Fees described in this section are payable to the
8 department at the time an application for a license, permit, or
9 certificate is submitted. If an application for a license,
10 permit, or certificate is denied or if a license, permit, or
11 certificate is revoked before its expiration date, the department
12 shall not refund fees paid to the department.

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

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

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

26 (9) ~~Except for the licensure of clinical laboratories, not~~
27 ~~more than half the annual~~ **The** cost of licensure activities ~~as~~

1 ~~determined by the department~~ shall be ~~provided~~ **supported** by
2 license fees.

3 (10) The application fee for a waiver under section 21564 is
4 \$200.00 plus \$40.00 per hour for the professional services and
5 travel expenses directly related to processing the application.
6 The travel expenses shall be calculated in accordance with the
7 state standardized travel regulations of the department of
8 management and budget in effect at the time of the travel.

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

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

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

18 (a) The quality assurance assessment and all federal matching
19 funds attributed to that assessment shall be used to finance
20 medicaid nursing home reimbursement payments. Only licensed
21 nursing homes and hospital long-term care units that are assessed
22 the quality assurance assessment and participate in the medicaid
23 program are eligible for increased per diem medicaid
24 reimbursement rates under this subdivision.

25 (b) The quality assurance assessment shall be implemented on
26 May 10, 2002.

27 (c) The quality assurance assessment is based on the number

1 of licensed nursing home beds and the number of licensed hospital
2 long-term care unit beds in existence on July 1 of each year,
3 shall be assessed upon implementation pursuant to subdivision (b)
4 and subsequently on October 1 of each following year, and is
5 payable on a quarterly basis, the first payment due 90 days after
6 the date the assessment is assessed.

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

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

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

1 treasury past due amounts consistent with section 13 of 1941
2 PA 122, MCL 205.13.

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

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

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

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

21 (l) In fiscal year 2004-2005, \$21,900,000.00 of the quality
22 assurance assessment collected pursuant to subsection (1)(g)
23 shall be appropriated to the department of community health to
24 support medicaid expenditures for long-term care services. These
25 funds shall offset an identical amount of general fund/general
26 purpose revenue originally appropriated for that purpose.

27 (14) The quality assurance dedication is an earmarked

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

5 (a) Part of the quality assurance assessment shall be used to
6 maintain the increased medicaid reimbursement rate increases as
7 provided for in subdivision (d). A portion of the funds
8 collected from the quality assurance assessment may be used to
9 offset any reduction to existing intergovernmental transfer
10 programs with public hospitals that may result from
11 implementation of the enhanced medicaid payments financed by the
12 quality assurance assessment. Any portion of the funds collected
13 from the quality assurance assessment reduced because of existing
14 intergovernmental transfer programs shall be used to finance
15 medicaid hospital appropriations.

16 (b) The quality assurance assessment shall be implemented on
17 October 1, 2002.

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

26 (d) Upon implementation pursuant to subdivision (b), the
27 department of community health shall increase the hospital

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

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

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

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

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

1 assurance assessment collected under subsection (1)(h), except as
2 provided in subdivision (i).

3 (i) The quality assurance assessment collected under
4 subsection (1)(h) shall no longer be assessed or collected after
5 September 30, 2007, or in the event that the quality assurance
6 assessment is not eligible for federal matching funds. Any
7 portion of the quality assurance assessment collected from a
8 hospital that is not eligible for federal matching funds shall be
9 returned to the hospital.

10 (j) In fiscal year 2004-2005, \$18,900,000.00 of the quality
11 assurance assessment collected pursuant to subsection (1)(h)
12 shall be appropriated to the department of community health to
13 support medicaid expenditures for hospital services and therapy.
14 These funds shall offset an identical amount of general
15 fund/general purpose revenue originally appropriated for that
16 purpose.

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

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