

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5055**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 20161 (MCL 333.20161), as amended by 2004 PA  
469.

**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 outpatient  
8 facilities ..... \$238.00 per facility.

- 1 (b) Hospitals ..... \$8.28 per licensed bed.
- 2 (c) Nursing homes, county medical care
- 3 facilities, and hospital long-term care
- 4 units ..... \$2.20 per licensed bed.
- 5 (d) Homes for the aged ..... \$6.27 per licensed bed.
- 6 (e) Clinical laboratories ..... \$475.00 per laboratory.
- 7 (f) Hospice residences ..... \$200.00 per license
- 8 survey; and \$20.00 per
- 9 licensed bed.
- 10 (g) Subject to subsection (13), quality
- 11 assurance assessment for ~~nongovernmentally~~
- 12 ~~owned~~ nursing homes and hospital long-term
- 13 care units ..... an amount resulting in
- 14 not more than 6% of
- 15 total industry
- 16 revenues.
- 17 (h) Subject to subsection (14), quality
- 18 assurance assessment 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 ~~(j)~~ (I).
- 27 (2) If a hospital requests the department to conduct a

1 certification survey for purposes of title XVIII or title XIX of  
2 the social security act, the hospital shall pay a license fee  
3 surcharge of \$23.00 per bed. As used in this subsection, "title  
4 XVIII" and "title XIX" mean those terms as defined in section  
5 20155.

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

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

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

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

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

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

14          (9) The cost of licensure activities shall be supported by  
15 license fees.

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

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

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

27          (13) The quality assurance assessment collected under

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

4 (a) The quality assurance assessment and all federal matching  
 5 funds attributed to that assessment shall be used to finance  
 6 medicaid nursing home reimbursement payments. Only licensed nursing  
 7 homes and hospital long-term care units that are assessed the  
 8 quality assurance assessment and participate in the medicaid  
 9 program are eligible for increased per diem medicaid reimbursement  
 10 rates under this subdivision.

11 ~~—— (b) The quality assurance assessment shall be implemented on~~  
 12 ~~May 10, 2002.~~

13 (B) ~~(e) The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION**  
 14 **(C), BEGINNING OCTOBER 1, 2005, THE** quality assurance assessment is  
 15 based on the ~~number of licensed nursing home beds and the number~~  
 16 ~~of licensed hospital long term care unit beds in existence on July~~  
 17 ~~1 of each year, shall be assessed upon implementation pursuant to~~  
 18 ~~subdivision (b)~~ **TOTAL NUMBER OF PATIENT DAYS OF CARE EACH NURSING**  
 19 **HOME AND HOSPITAL LONG-TERM CARE UNIT PROVIDED TO NONMEDICARE**  
 20 **PATIENTS WITHIN THE IMMEDIATELY PRECEDING YEAR AND SHALL BE**  
 21 **ASSESSED AT A UNIFORM RATE ON OCTOBER 1, 2005** and subsequently on  
 22 October 1 of each following year, and is payable on a quarterly  
 23 basis, the first payment due 90 days after the date the assessment  
 24 is assessed.

25 (C) **WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**  
 26 **ACT THAT ADDED THIS SUBDIVISION, THE DEPARTMENT SHALL SUBMIT AN**  
 27 **APPLICATION TO THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID**

1 SERVICES TO REQUEST A WAIVER PURSUANT TO 42 CFR 433.68(E) TO  
2 IMPLEMENT THIS SUBDIVISION AS FOLLOWS:

3 (i) IF THE WAIVER IS APPROVED, THE QUALITY ASSURANCE ASSESSMENT  
4 RATE FOR A NURSING HOME OR HOSPITAL LONG-TERM CARE UNIT WITH LESS  
5 THAN 40 LICENSED BEDS OR WITH THE MAXIMUM NUMBER, OR MORE THAN THE  
6 MAXIMUM NUMBER, OF LICENSED BEDS NECESSARY TO SECURE FEDERAL  
7 APPROVAL OF THE APPLICATION IS \$2.00 PER NONMEDICARE PATIENT DAY OF  
8 CARE PROVIDED WITHIN THE IMMEDIATELY PRECEDING YEAR OR A RATE AS  
9 OTHERWISE ALTERED ON THE APPLICATION FOR THE WAIVER TO OBTAIN  
10 FEDERAL APPROVAL. IF THE WAIVER IS APPROVED, FOR ALL OTHER NURSING  
11 HOMES AND LONG-TERM CARE UNITS THE QUALITY ASSURANCE ASSESSMENT  
12 RATE IS TO BE CALCULATED BY DIVIDING THE TOTAL STATEWIDE MAXIMUM  
13 ALLOWABLE ASSESSMENT PERMITTED UNDER SUBSECTION (1)(G) LESS THE  
14 TOTAL AMOUNT TO BE PAID BY THE NURSING HOMES AND LONG-TERM CARE  
15 UNITS WITH LESS THAN 40 OR WITH THE MAXIMUM NUMBER, OR MORE THAN  
16 THE MAXIMUM NUMBER, OF LICENSED BEDS NECESSARY TO SECURE FEDERAL  
17 APPROVAL OF THE APPLICATION BY THE TOTAL NUMBER OF NONMEDICARE  
18 PATIENT DAYS OF CARE PROVIDED WITHIN THE IMMEDIATELY PRECEDING YEAR  
19 BY THOSE NURSING HOMES AND LONG-TERM CARE UNITS WITH MORE THAN 39,  
20 BUT LESS THAN THE MAXIMUM NUMBER OF LICENSED BEDS NECESSARY TO  
21 SECURE FEDERAL APPROVAL. THE QUALITY ASSURANCE ASSESSMENT, AS  
22 PROVIDED UNDER THIS SUBPARAGRAPH, SHALL BE ASSESSED IN THE FIRST  
23 QUARTER AFTER FEDERAL APPROVAL OF THE WAIVER AND SHALL BE  
24 SUBSEQUENTLY ASSESSED ON OCTOBER 1 OF EACH FOLLOWING YEAR, AND IS  
25 PAYABLE ON A QUARTERLY BASIS, THE FIRST PAYMENT DUE 90 DAYS AFTER  
26 THE DATE THE ASSESSMENT IS ASSESSED.

27 (ii) IF THE WAIVER IS APPROVED, CONTINUING CARE RETIREMENT

1 CENTERS ARE EXEMPT FROM THE QUALITY ASSURANCE ASSESSMENT IF THE  
2 CONTINUING CARE RETIREMENT CENTER REQUIRES EACH CENTER RESIDENT TO  
3 PROVIDE AN INITIAL LIFE INTEREST PAYMENT OF \$150,000.00, ON  
4 AVERAGE, PER RESIDENT TO ENSURE PAYMENT FOR THAT RESIDENT'S  
5 RESIDENCY AND SERVICES AND THE CONTINUING CARE RETIREMENT CENTER  
6 UTILIZES ALL OF THE INITIAL LIFE INTEREST PAYMENT BEFORE THE  
7 RESIDENT BECOMES ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THE STATE'S  
8 MEDICAID PLAN. AS USED IN THIS SUBPARAGRAPH, "CONTINUING CARE  
9 RETIREMENT CENTER" MEANS A NURSING CARE FACILITY THAT PROVIDES  
10 INDEPENDENT LIVING SERVICES, ASSISTED LIVING SERVICES, AND NURSING  
11 CARE AND MEDICAL TREATMENT SERVICES, IN A CAMPUS-LIKE SETTING THAT  
12 HAS SHARED FACILITIES OR COMMON AREAS, OR BOTH.

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

16 (e) ~~Upon implementation pursuant to subdivision (b)~~ **BEGINNING**  
17 **MAY 10, 2002**, the department of community health shall increase the  
18 per diem nursing home medicaid reimbursement rates for the balance  
19 of that year. For each subsequent year in which the quality  
20 assurance assessment is assessed and collected, the department of  
21 community health shall maintain the medicaid nursing home  
22 reimbursement payment increase financed by the quality assurance  
23 assessment.

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

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

9 (h) The medicaid nursing home quality assurance assessment  
10 fund is established in the state treasury. The department of  
11 community health shall deposit the revenue raised through the  
12 quality assurance assessment with the state treasurer for deposit  
13 in the medicaid nursing home quality assurance assessment fund.

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

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

22 (k) In each fiscal year governed by this subsection, medicaid  
23 reimbursement rates shall not be reduced below the medicaid  
24 reimbursement rates in effect on April 1, 2002 as a direct result  
25 of the quality assurance assessment collected under subsection  
26 (1)(g).

27 (l) In fiscal year ~~2004-2005, \$21,900,000.00~~ 2005-2006,



1 \$39,900,000.00 of the quality assurance assessment collected  
2 pursuant to subsection (1)(g) shall be appropriated to the  
3 department of community health to support medicaid expenditures for  
4 long-term care services. These funds shall offset an identical  
5 amount of general fund/general purpose revenue originally  
6 appropriated for that purpose.

7 (14) The quality assurance dedication is an earmarked  
8 assessment collected under subsection (1)(h). That assessment and  
9 all federal matching funds attributed to that assessment shall be  
10 used only for the following ~~purposes~~ **PURPOSE** and under the  
11 following specific circumstances:

12 (a) ~~Part of the quality assurance assessment shall be used to~~  
13 **TO** maintain the increased medicaid reimbursement rate increases as  
14 provided for in subdivision ~~(d)~~ **(C)**. ~~A portion of the funds~~  
15 ~~collected from the quality assurance assessment may be used to~~  
16 ~~offset any reduction to existing intergovernmental transfer~~  
17 ~~programs with public hospitals that may result from implementation~~  
18 ~~of the enhanced medicaid payments financed by the quality assurance~~  
19 ~~assessment. Any portion of the funds collected from the quality~~  
20 ~~assurance assessment reduced because of existing intergovernmental~~  
21 ~~transfer programs shall be used to finance medicaid hospital~~  
22 ~~appropriations.~~

23 ~~— (b) The quality assurance assessment shall be implemented on~~  
24 ~~October 1, 2002.~~

25 **(B)** ~~(e)~~ The quality assurance assessment shall be assessed  
26 on all net patient revenue, before deduction of expenses, less  
27 medicare net revenue, as reported in the most recently available

1 medicare cost report and is payable on a quarterly basis, the first  
2 payment due 90 days after the date the assessment is assessed. As  
3 used in this subdivision, "medicare net revenue" includes medicare  
4 payments and amounts collected for coinsurance and deductibles.

5 (C) ~~—(d) Upon implementation pursuant to subdivision (b)~~  
6 **BEGINNING OCTOBER 1, 2002**, the department of community health shall  
7 increase the hospital medicaid reimbursement rates for the balance  
8 of that year. For each subsequent year in which the quality  
9 assurance assessment is assessed and collected, the department of  
10 community health shall maintain the hospital medicaid reimbursement  
11 rate increase financed by the quality assurance assessments.

12 (D) ~~—(e)~~ The department of community health shall implement  
13 this section in a manner that complies with federal requirements  
14 necessary to assure that the quality assurance assessment qualifies  
15 for federal matching funds.

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

23 (F) ~~—(g)~~ The hospital quality assurance assessment fund is  
24 established in the state treasury. The department of community  
25 health shall deposit the revenue raised through the quality  
26 assurance assessment with the state treasurer for deposit in the  
27 hospital quality assurance assessment fund.

1           **(G)** ~~—(h)—~~ In each fiscal year governed by this subsection, the  
2 quality assurance assessment shall only be collected and expended  
3 if medicaid hospital inpatient DRG and outpatient reimbursement  
4 rates and disproportionate share hospital and graduate medical  
5 education payments are not below the level of rates and payments in  
6 effect on April 1, 2002 as a direct result of the quality assurance  
7 assessment collected under subsection (1) (h), except as provided in  
8 subdivision ~~—(i)—~~ **(H)**.

9           **(H)** ~~—(i)—~~ The quality assurance assessment collected under  
10 subsection (1) (h) shall no longer be assessed or collected after  
11 September 30, ~~—2007—~~ **2008**, or in the event that the quality  
12 assurance assessment is not eligible for federal matching funds.  
13 Any portion of the quality assurance assessment collected from a  
14 hospital that is not eligible for federal matching funds shall be  
15 returned to the hospital.

16           **(I)** ~~—(j)—~~ In fiscal year ~~—2004—2005, \$18,900,000.00—~~ **2005-**  
17 **2006, \$42,400,000.00** of the quality assurance assessment collected  
18 pursuant to subsection (1) (h) shall be appropriated to the  
19 department of community health to support medicaid expenditures for  
20 hospital services and therapy. These funds shall offset an  
21 identical amount of general fund/general purpose revenue originally  
22 appropriated for that purpose.

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

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

27           Enacting section 1. Section 20161 of the public health code,

1 1978 PA 368, MCL 333.20161, as amended by this amendatory act is  
2 retroactive and is effective for all quality assurance assessments  
3 made after September 30, 2005.