

# HOUSE BILL No. 5834

February 28, 2008, Introduced by Rep. McDowell and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20161 (MCL 333.20161), as amended by 2007 PA 85.

**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

1 outpatient facilities.....\$238.00 per facility.  
2 (b) Hospitals.....\$8.28 per licensed bed.  
3 (c) Nursing homes, county  
4 medical care facilities, and  
5 hospital long-term care units.....\$2.20 per licensed bed.  
6 (d) Homes for the aged.....\$6.27 per licensed bed.  
7 (e) Clinical laboratories.....\$475.00 per laboratory.  
8 (f) Hospice residences.....\$200.00 per license  
9 survey; and \$20.00 per  
10 licensed bed.  
11 (g) Subject to subsection  
12 (13), quality assurance assessment  
13 for nursing homes and hospital  
14 long-term care units.....an amount resulting  
15 in not more than 6%  
16 of total industry  
17 revenues.  
18 (h) Subject to subsection  
19 (14), quality assurance assessment  
20 for hospitals.....at a fixed or variable  
21 rate that generates  
22 funds not more than the  
23 maximum allowable under  
24 the federal matching  
25 requirements, after  
26 consideration for the  
27 amounts in subsection  
28 (14)(a) and (i).  
29 (2) If a hospital requests the department to conduct a  
30 certification survey for purposes of title XVIII or title XIX of

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

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

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

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

27 (6) The fee for a provisional license or temporary permit is

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

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

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

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

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

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

24 (12) Except as otherwise provided in this section, the fees  
25 and assessments collected under this section shall be deposited  
26 in 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  
2 that assessment shall be used only for the following purposes and  
3 under the following specific circumstances:

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

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

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

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

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

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

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

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

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

1 financed by the quality assurance assessment.

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

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

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

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

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



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

6           (l) In each fiscal year, \$39,900,000.00 of the quality  
7    assurance assessment collected pursuant to subsection (1)(g)  
8    shall be appropriated to the department of community health to  
9    support medicaid expenditures for long-term care services. These  
10   funds shall offset an identical amount of general fund/general  
11   purpose revenue originally appropriated for that purpose.

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

17           (a) To maintain the increased medicaid reimbursement rate  
18   increases as provided for in subdivision (c).

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

27           (c) Beginning October 1, 2002, the department of community

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

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

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

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

23 (g) In each fiscal year governed by this subsection, the  
24 quality assurance assessment shall only be collected and expended  
25 if medicaid hospital inpatient DRG and outpatient reimbursement  
26 rates and disproportionate share hospital and graduate medical  
27 education payments are not below the level of rates and payments

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1 in effect on April 1, 2002 as a direct result of the quality  
 2 assurance assessment collected under subsection (1)(h), except as  
 3 provided in subdivision (h).

4 (h) The quality assurance assessment collected under  
 5 subsection (1)(h) shall no longer be assessed or collected after  
 6 September 30, ~~[2008-2010]~~, or in the event that the quality assurance  
 7 assessment is not eligible for federal matching funds. Any  
 8 portion of the quality assurance assessment collected from a  
 9 hospital that is not eligible for federal matching funds shall be  
 10 returned to the hospital.

11 (i) In fiscal year 2005-2006, \$46,400,000.00 of the quality  
 12 assurance assessment collected pursuant to subsection (1)(h)  
 13 shall be appropriated to the department of community health to  
 14 support medicaid expenditures for hospital services and therapy.  
 15 In fiscal year 2006-2007, \$66,400,000.00 of the quality assurance  
 16 assessment collected pursuant to subsection (1)(h) shall be  
 17 appropriated to the department of community health to support  
 18 medicaid expenditures for hospital services and therapy. Except  
 19 as otherwise provided in this subdivision, in fiscal year 2007-  
 20 2008, ~~\$66,400,000.00~~ **[\$81,400,000.00]** of the quality assurance  
 21 assessment collected pursuant to subsection (1)(h) shall be  
 22 appropriated to the department of community health to support  
 23 medicaid expenditures for hospital services and therapy. However,  
 24 if the state receives approval from the centers for medicare and  
 25 medicaid services to increase medicaid ~~[health maintenance~~  
 26 ~~organization hospital payment rates~~ **DISPROPORTIONATE SHARE HOSPITAL**  
 27 **PAYMENTS]** that increase medicaid  
 payments to hospitals by ~~[\$120,000,000.00~~ **-\$100,000,000.00]** or more in  
 fiscal year

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1 2007-2008, then in fiscal year 2007-2008, ~~\$81,400,000.00~~  
2 **\$98,850,000.00**, instead of ~~\$66,400,000.00~~ **[\$81,400,000.00]**, of the  
3 quality assurance assessment collected pursuant to subsection  
4 (1)(h) shall be appropriated to the department of community  
5 health to support medicaid expenditures for hospital services and  
6 therapy. These funds shall offset an identical amount of general  
7 fund/general purpose revenue originally appropriated for that  
8 purpose.

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

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