

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Basham, Kolb, Meyer, Mortimer, Raczkowski, Schauer, Shackleton and Stewart

ENROLLED HOUSE BILL No. 5103

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16105, 16106, 16108, 16128, 16163, 16174, 16186, 16261, 16323, 16608, and 20161 (MCL 333.16105, 333.16106, 333.16108, 333.16128, 333.16163, 333.16174, 333.16186, 333.16261, 333.16323, 333.16608, and 333.20161), section 16106 as amended by 1997 PA 153, sections 16108 and 16186 as amended and section 16323 as added by 1993 PA 80, section 16174 as amended by 1998 PA 227, section 16608 as amended by 1990 PA 216, and section 20161 as amended by 2002 PA 303.

The People of the State of Michigan enact:

Sec. 16105. (1) "Health occupation" means a health related vocation, calling, occupation, or employment performed by an individual whether or not the individual is licensed or registered under this article.

(2) "Health profession" means a vocation, calling, occupation, or employment performed by an individual acting pursuant to a license or registration issued under this article.

(3) "Health profession specialty field" means an area of practice established under this article that is within the scope of activities, functions, and duties of a licensed health profession and that requires advanced education and training beyond that required for initial licensure.

(4) “Health profession specialty field license” means an authorization to use a title issued to a licensee who has met qualifications established by the Michigan board of dentistry for registration in a health profession specialty field. An individual who holds a dental specialty certification on the effective date of the amendatory act that added this subsection is considered to hold a health profession specialty field license in that specialty and may obtain renewal of the health profession specialty field license in that specialty on the expiration date of the specialty certification. The health profession specialty field license is not a license as that term is defined in section 16106(2).

(5) “Health profession subfield” means an area of practice established under this article which is within the scope of the activities, functions, and duties of a licensed health profession, and requires less comprehensive knowledge and skill than is required to practice the full scope of the health profession.

Sec. 16106. (1) “Incompetence” means a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.

(2) “License”, except as otherwise provided in this subsection, means an authorization issued under this article to practice where practice would otherwise be unlawful. License includes an authorization to use a designated title which use would otherwise be prohibited under this article and may be used to refer to a health profession subfield license, limited license, or a temporary license. For purposes of the definition of “prescriber” contained in section 17708(2) only, license includes an authorization issued under the laws of another state, or the country of Canada to practice in that state or in the country of Canada, where practice would otherwise be unlawful, and is limited to a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery. License does not include a health profession specialty field license.

(3) “Licensee”, as used in a part that regulates a specific health profession, means an individual to whom a license is issued under that part, and as used in this part means each licensee regulated by this article.

(4) “Limitation” means an action by which a board imposes restrictions or conditions, or both, on a license.

(5) “Limited license” means a license to which restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served are imposed by a board.

Sec. 16108. (1) “Reclassification” means an action by a disciplinary subcommittee by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) “Registration” means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. Registration includes specialty certification of a licensee and a health profession specialty field license.

(3) “Registrant” as used in a part that regulates the use of a title means an individual to whom a registration, a specialty certification, or a health profession specialty field license is issued under that part, and as used in this part means each registrant regulated by this article.

(4) “Reinstatement” means the granting of a license or certificate of registration, with or without limitations or conditions, to an individual whose license or certificate of registration has been suspended or revoked.

(5) “Relicensure” means the granting of a license to an individual whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(6) “Reregistration” means the granting of a certificate of registration to an individual whose certificate of registration has lapsed for failure to renew the certificate within 60 days after the expiration date.

Sec. 16128. (1) A health profession subfield task force shall be composed of a majority of members licensed in the subfields of the health profession that are created by this article and shall include at least 1 licensed member from each of the subfields of the health profession that is created by this article. A health profession subfield task force shall include at least 1 public member and 1 member of that profession who holds a license other than a subfield license in that health profession.

(2) A health profession specialty field task force shall be composed of a majority of members registered in the specialty fields of the health profession that are created by this article. A health profession specialty field task force shall include at least 1 public member and 1 member of that health profession who is a member of the board.

Sec. 16163. A task force shall recommend to the board as to:

(a) Determination of standards of education, training, and experience required for practice in a health profession subfield or for registration in a health profession specialty field, and where appropriate, guidelines for approval of educational programs for the health profession subfield or health profession specialty field.

(b) Qualifications required of applicants for licensure in health profession subfields or for registration in health profession specialty fields.

(c) Evaluation of qualifications for initial and continuing licensure of practitioners in health profession subfields or health profession specialty fields. The evaluation may cover assessment of educational credentials, work experience and related training, and administration of tests and examinations.

(d) Guidelines for utilization of, and standards of practice for, licensees in health profession subfields or registrants in health profession specialty fields.

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a health profession subfield or health profession specialty field of the health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, specialty certification, or a health profession specialty subfield license under this article shall meet all of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article or article 7 or the rules promulgated under this article or article 7, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application.

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

(3) Before licensing, registering, certifying, or issuing a health profession specialty field license to an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification or health profession specialty field license to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2).

(4) If, after issuing a license, registration, specialty certification, or health profession specialty field license, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or specialty licensure or specialty certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(5) An applicant for licensure, registration, specialty certification, or a health profession specialty field license who is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or, until January 1, 2004, is licensed to practice a health profession in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, or specialty certified or specialty licensed in another state or, until January 1, 2004, is licensed in a province in Canada, that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2004, if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements for licensure in Canada or in the United States.

(d) Until January 1, 2004, if the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third party reimbursement will originate from the applicant's place of employment in this state.

(2) Before licensing, registering, specialty certifying, or granting a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) For purposes of the amendatory act that added this subsection, an applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada.

Sec. 16261. (1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the individual is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained the specialty certification or health profession specialty field license.

Sec. 16323. Fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, or dental hygienist under part 166 are as follows:

(a) Application processing fees:

(i) Dentist	\$ 20.00
(ii) Dental assistant	10.00
(iii) Dental hygienist	15.00
(iv) Health profession specialty field license for a dentist	20.00

(b) Examination fees:

(i) Dental assistant's examination, complete.....	70.00
(ii) Dental assistant's examination, per part.....	35.00
(iii) Dentist's health profession specialty field license examination, complete.....	300.00
(iv) Dentist's health profession specialty field license examination, per part	100.00

(c) License fees, per year:

(i) Dentist	90.00
(ii) Dental assistant	10.00
(iii) Dental hygienist	20.00
(iv) Dentist's health profession specialty field license.....	15.00

(d) Temporary license fees:

(i) Dentist	20.00
(ii) Dental assistant	5.00
(iii) Dental hygienist	10.00

(e) Limited license fee, per year:

(i) Dentist	25.00
(ii) Dental assistant	5.00
(iii) Dental hygienist	10.00

(f) Examination review fees:

(i) Dental preclinical or dentist's health profession specialty field license.....	50.00
(ii) Dental assistant	20.00

Sec. 16608. (1) The board may issue a health profession specialty field license to a licensed dentist who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes in 1 or more of the following health profession specialty fields: prosthodontics, endodontics, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, or oral pathology. A licensed dentist who holds a health profession specialty certification in 1 or more of the health profession specialty fields listed in this subsection on the effective date of the amendatory act that added subsections (3) and (4) is considered to hold a health profession specialty field license in each of those health profession specialty fields and may obtain renewal of each health profession specialty field license on the expiration date of the specialty certification.

(2) A health profession specialty field license issued pursuant to subsection (1) shall be renewed concurrently with the license to practice dentistry.

(3) This section does not prohibit a licensed dentist who has not been issued a health profession specialty field license under subsection (1) from performing services in 1 or more of the health profession specialty fields listed in subsection (1).

(4) For purposes of the administration of the general rules of the board of dentistry in the Michigan administrative code, a reference to specialty certification is a reference to a health profession specialty field license.

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

(a) Freestanding surgical outpatient facilities	\$ 238.00 per facility.
(b) Hospitals	\$ 8.28 per licensed bed.
(c) Nursing homes, county medical care facilities, and hospital long-term care units.....	\$ 2.20 per licensed bed.
(d) Homes for the aged.....	\$ 6.27 per licensed bed.
(e) Clinical laboratories	\$ 475.00 per laboratory.
(f) Hospice residences	\$ 200.00 per license survey; and \$20.00 per licensed bed.
(g) Subject to subsection (13), quality assurance assessment fee for nongovernmentally owned nursing homes and hospital long-term care units	an amount resulting in not more than a 7% increase in aggregate medicaid nursing home and hospital long-term care unit payment rates, net of assessments, above the rates that were in effect on April 1, 2002.
(h) Subject to subsection (14), quality assurance assessment fee for hospitals	at a rate that generates funds not more than the maximum allowable under the federal matching requirements, after consideration for the amounts in subsection (14)(a) and (k).

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

(3) The base fee for a certificate of need is \$750.00 for each application. For a project requiring a projected capital expenditure of more than \$150,000.00 but less than \$1,500,000.00, an additional fee of \$2,000.00 shall be added to the base fee. For a project requiring a projected capital expenditure of \$1,500,000.00 or more, an additional fee of \$3,500.00 shall be added to the base fee.

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

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

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

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

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

(9) Except for the licensure of clinical laboratories, not more than half the annual cost of licensure activities as determined by the department shall be provided by license fees.

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

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

(12) The fees collected under this section shall be deposited in the state treasury, to the credit of the general fund.

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

(a) The quality assurance assessment fee and all federal matching funds attributed to that fee shall be used to maintain the increased per diem medicaid reimbursement rate increases as provided for in subdivision (e). Only licensed nursing homes and hospital long-term care units that are assessed the quality assurance assessment fee and participate in the medicaid program are eligible for increased per diem medicaid reimbursement rates under this subdivision.

(b) The quality assurance assessment fee shall be implemented on the effective date of the amendatory act that added this subsection.

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

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

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

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

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

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

(i) Neither the department of consumer and industry services nor the department of community health shall implement this subsection in a manner that conflicts with 42 U.S.C. 1396b(w).

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

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

(l) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this subsection, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES

Long-term care services.....	\$ 1,469,003,900
Gross appropriation.....	\$ 1,469,003,900
Appropriated from:	
Federal revenues:	
Total federal revenues	814,122,200
Special revenue funds:	
Medicaid quality assurance assessment.....	44,829,000
Total local revenues	8,445,100
State general fund/general purpose	\$ 601,607,600

(14) The quality assurance dedication is an earmarked assessment fee collected under subsection (1)(h) and all federal matching funds attributed to that fee shall be used only for the following purposes and under the following specific circumstances:

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

(b) The quality assurance assessment fee shall be implemented on the effective date of the amendatory act that added this subsection.

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

(d) Upon implementation pursuant to subdivision (b), the department of community health shall increase the hospital medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment fee is assessed and collected, the department of community health shall maintain the hospital medicaid reimbursement rate increase financed by the quality assurance assessment fees.

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

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

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

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

(i) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this subsection, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES

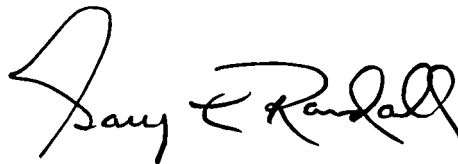
Hospital services and therapy.....	\$ 779,289,100
Gross appropriation.....	\$ 779,289,100
Appropriated from:	
Federal revenues:	
Total federal revenues	431,812,800
Special revenue funds:	
Medicaid quality assurance assessment.....	66,513,500
Total local revenues	0
State general fund/general purpose	\$ 280,962,800

(j) The quality assurance assessment fee collected under subsection (1)(h) shall no longer be assessed or collected after September 30, 2004, or in the event that the quality assurance assessment fee is not eligible for federal matching funds. Any portion of an assessment collected from a hospital that is not eligible for federal matching funds shall be returned to the hospital.

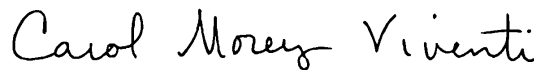
(k) In fiscal year 2002-2003, \$18,900,000.00 of the quality assurance assessment fee shall be deposited into the general fund.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.