SENATE BILL No. 671

June 30, 2005, Introduced by Senator STAMAS 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 2004 PA 469.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 20161. (1) The department shall assess fees and other assessments 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 and assessments shall be paid in accordance with the following schedule:

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

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(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 for nongovernmentally owned nursing homes and hospital long-term care units	an amount resulting in not more than 6% of total industry revenues.
(h) Subject to subsection (14), quality assurance assessment for hospitals	at a fixed or variable 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 (j).

(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 $1,500.00 for each application. For a project requiring a projected capital expenditure of more than $500,000.00 but less than $4,000,000.00, an additional fee of $4,000.00 shall be added to the base fee. For a project requiring a projected capital expenditure of $4,000,000.00 or more, an additional fee of $7,000.00 shall be added to the 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.

(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) The cost of licensure activities shall be supported 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) Except as otherwise provided in this section, the fees and assessments collected under this section shall be deposited in the state treasury, to the credit of the general fund.

(13) The quality assurance assessment collected under

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

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

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

(c) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SUBDIVISION (D), BEGINNING OCTOBER 1, 2005, THE** quality assurance assessment 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)~~ **TOTAL NUMBER OF PATIENT DAYS OF CARE EACH NURSING HOME AND HOSPITAL LONG-TERM CARE UNIT PROVIDED TO NONMEDICARE PATIENTS WITHIN THE IMMEDIATELY PRECEDING YEAR AND SHALL BE ASSESSED AT A UNIFORM RATE ON OCTOBER 1, 2005** 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 assessment is assessed.

(D) THE DEPARTMENT SHALL IMMEDIATELY SUBMIT AN APPLICATION TO THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES TO REQUEST A WAIVER OF THE UNIFORMITY TAX REQUIREMENT PURSUANT TO 42 CFR

433.68(E)(2) TO IMPLEMENT THIS SUBDIVISION. SUBJECT TO APPROVAL OF THE UNIFORMITY WAIVER, THE QUALITY ASSURANCE ASSESSMENT RATE FOR A NURSING HOME OR HOSPITAL LONG-TERM CARE UNIT WITH LESS THAN 40 LICENSED BEDS OR MORE THAN 330 LICENSED BEDS IS $2.00 PER NONMEDICARE PATIENT DAY OF CARE PROVIDED WITHIN THE IMMEDIATELY PRECEDING YEAR OR A RATE AS OTHERWISE ALTERED ON THE APPLICATION FOR THE UNIFORMITY WAIVER TO OBTAIN FEDERAL APPROVAL. SUBJECT TO APPROVAL OF THE UNIFORMITY WAIVER, FOR ALL OTHER NURSING HOMES AND LONG-TERM CARE UNITS THE QUALITY ASSURANCE ASSESSMENT RATE IS TO BE CALCULATED BY DIVIDING THE TOTAL STATEWIDE MAXIMUM ALLOWABLE ASSESSMENT PERMITTED UNDER SUBSECTION (1)(G) LESS THE TOTAL AMOUNT TO BE PAID BY THE NURSING HOMES AND LONG-TERM CARE UNITS WITH FEWER THAN 40 OR MORE THAN 330 LICENSED BEDS BY THE TOTAL NUMBER OF NONMEDICARE PATIENT DAYS OF CARE PROVIDED WITHIN THE IMMEDIATELY PRECEDING YEAR BY THOSE NURSING HOMES AND LONG-TERM CARE UNITS WITH MORE THAN 39, BUT LESS THAN 330, LICENSED BEDS. THE QUALITY ASSURANCE ASSESSMENT, AS PROVIDED UNDER THIS SUBDIVISION, SHALL BE ASSESSED ON THE OCTOBER 1 IMMEDIATELY FOLLOWING FEDERAL APPROVAL OF THE WAIVER 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 ASSESSMENT IS ASSESSED.

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

(F) ~~(e) Upon implementation pursuant to subdivision (b)~~ **BEGINNING MAY 10, 2002**, 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 is assessed and collected, the department of community health shall maintain the medicaid nursing home reimbursement payment increase financed by the quality assurance assessment.

(G) ~~(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 qualifies for federal matching funds.

(H) ~~(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.

(I) ~~(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 with the state treasurer for deposit in the medicaid nursing home quality assurance assessment fund.

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

(K) ~~(j)~~ The quality assurance assessment 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.

(l) ~~(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 collected under subsection (1)(g).

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

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

(a) Part of the quality assurance assessment 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 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. Any portion of the funds collected from the quality assurance assessment reduced because of existing intergovernmental transfer programs shall be used to finance medicaid hospital appropriations.

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

(c) The quality assurance assessment shall be assessed on all net patient revenue, before deduction of expenses, less medicare net revenue, as reported in the most recently available medicare cost report and is payable on a quarterly basis, the first payment due 90 days after the date the assessment 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)~~ **BEGINNING OCTOBER 1, 2002**, 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 is assessed and collected, the department of community health shall maintain the hospital medicaid reimbursement rate increase financed by the quality assurance assessments.

(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 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 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 shall only be collected and expended if medicaid hospital inpatient DRG and outpatient reimbursement rates and 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 collected under subsection (1)(h), except as provided in subdivision (i).

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

(j) In fiscal year 2004-2005, $18,900,000.00 of the quality

assurance assessment collected pursuant to subsection (1)(h) shall be appropriated to the department of community health to support medicaid expenditures for hospital services and therapy. These funds shall offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

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

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