

HOUSE BILL No. 6060

May 6, 2008, Introduced by Rep. Jackson 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.

(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).

(l) In each fiscal year, ~~\$39,900,000.00 of the~~ **AMOUNT OF THE** quality assurance assessment collected pursuant to subsection (1)(g) ~~shall be~~ **THAT IS** appropriated to the department of community health to support medicaid expenditures for long-term care services **SHALL EQUAL 14.9% OF THE TOTAL FEDERAL MATCHING FUNDS EARNED FROM THE QUALITY ASSURANCE ASSESSMENT COLLECTED PURSUANT TO SUBSECTION (1)(G).** 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 purpose and under the following specific circumstances:

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

(b) 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"

1 includes medicare payments and amounts collected for coinsurance
2 and deductibles.

3 (c) Beginning October 1, 2002, the department of community
4 health shall increase the hospital medicaid reimbursement rates
5 for the balance of that year. For each subsequent year in which
6 the quality assurance assessment is assessed and collected, the
7 department of community health shall maintain the hospital
8 medicaid reimbursement rate increase financed by the quality
9 assurance assessments.

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

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

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

26 (g) In each fiscal year governed by this subsection, the
27 quality assurance assessment shall only be collected and expended

1 if medicaid hospital inpatient DRG and outpatient reimbursement
2 rates and disproportionate share hospital and graduate medical
3 education payments are not below the level of rates and payments
4 in effect on April 1, 2002 as a direct result of the quality
5 assurance assessment collected under subsection (1)(h), except as
6 provided in subdivision (h).

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

14 ~~(i) In fiscal year 2005-2006, \$46,400,000.00 of the quality~~
15 ~~assurance assessment collected pursuant to subsection (1)(h)~~
16 ~~shall be appropriated to the department of community health to~~
17 ~~support medicaid expenditures for hospital services and therapy.~~
18 ~~In fiscal year 2006-2007, \$66,400,000.00 of the quality assurance~~
19 ~~assessment collected pursuant to subsection (1)(h) shall be~~
20 ~~appropriated to the department of community health to support~~
21 ~~medicaid expenditures for hospital services and therapy. Except~~
22 ~~as otherwise provided in this subdivision, in fiscal year 2007-~~
23 ~~2008, \$66,400,000.00 of the quality assurance assessment~~
24 ~~collected pursuant to subsection (1)(h) shall be appropriated to~~
25 ~~the department of community health to support medicaid~~
26 ~~expenditures for hospital services and therapy. However, if the~~
27 ~~state receives approval from the centers for medicare and~~

1 ~~medicaid services to increase medicaid health maintenance~~
2 ~~organization hospital payment rates that increase medicaid~~
3 ~~payments to hospitals by \$120,000,000.00 or more in fiscal year~~
4 ~~2007-2008, then in fiscal year 2007-2008, \$81,400,000.00, instead~~
5 ~~of \$66,400,000.00, of~~ **IN EACH FISCAL YEAR, THE AMOUNT OF** the
6 quality assurance assessment collected pursuant to subsection
7 (1)(h) ~~shall be~~ **THAT IS** appropriated to the department of
8 community health to support medicaid expenditures for hospital
9 services and therapy **SHALL EQUAL 14.9% OF THE TOTAL FEDERAL**
10 **MATCHING FUNDS EARNED FROM THE QUALITY ASSURANCE ASSESSMENT**
11 **COLLECTED PURSUANT TO SUBSECTION (1)(H).** These funds shall offset
12 an identical amount of general fund/general purpose revenue
13 originally appropriated for that purpose.

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

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