SENATE BILL No. 582

# SENATE BILL No. 582

May 14, 2009, Introduced by Senators JELINEK, GEORGE and JANSEN and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending section 20161 (MCL 333.20161), as amended by 2008 PA 277.

**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:

SENATE BILL No. 582

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

1 (2) If a hospital requests the department to conduct a
2 certification survey for purposes of title XVIII or title XIX of
3 the social security act, the hospital shall pay a license fee
4 surcharge of $23.00 per bed. As used in this subsection, "title
5 XVIII" and "title XIX" mean those terms as defined in section
6 20155.
7 (3) The base fee for a certificate of need is $1,500.00 for
8 each application. For a project requiring a projected capital
9 expenditure of more than $500,000.00 but less than $4,000,000.00,
10 an additional fee of $4,000.00 shall be added to the base fee.
11 For a project requiring a projected capital expenditure of
12 $4,000,000.00 or more, an additional fee of $7,000.00 shall be
13 added to the base fee. The department of community health shall
14 use the fees collected under this subsection only to fund the
15 certificate of need program. Funds remaining in the certificate
16 of need program at the end of the fiscal year shall not lapse to
17 the general fund but shall remain available to fund the
18 certificate of need program in subsequent years.
19 (4) If licensure is for more than 1 year, the fees described
20 in subsection (1) are multiplied by the number of years for which
21 the license is issued, and the total amount of the fees shall be
22 collected in the year in which the license is issued.
23 (5) Fees described in this section are payable to the
24 department at the time an application for a license, permit, or
25 certificate is submitted. If an application for a license,
26 permit, or certificate is denied or if a license, permit, or
27 certificate is revoked before its expiration date, the department

1 shall not refund fees paid to the department.
2 (6) The fee for a provisional license or temporary permit is
3 the same as for a license. A license may be issued at the
4 expiration date of a temporary permit without an additional fee
5 for the balance of the period for which the fee was paid if the
6 requirements for licensure are met.
7 (7) The department may charge a fee to recover the cost of
8 purchase or production and distribution of proficiency evaluation
9 samples that are supplied to clinical laboratories pursuant to
10 section 20521(3).
11 (8) In addition to the fees imposed under subsection (1), a
12 clinical laboratory shall submit a fee of $25.00 to the
13 department for each reissuance during the licensure period of the
14 clinical laboratory's license.
15 (9) The cost of licensure activities shall be supported by
16 license fees.
17 (10) The application fee for a waiver under section 21564 is
18 $200.00 plus $40.00 per hour for the professional services and
19 travel expenses directly related to processing the application.
20 The travel expenses shall be calculated in accordance with the
21 state standardized travel regulations of the department of
22 management and budget in effect at the time of the travel.
23 (11) An applicant for licensure or renewal of licensure
24 under part 209 shall pay the applicable fees set forth in part
25 209.
26 (12) Except as otherwise provided in this section, the fees
27 and assessments collected under this section shall be deposited

1 in the state treasury, to the credit of the general fund. The
2 department may use the unreserved fund balance in fees and
3 assessments for the background check program required under this
4 article.
5 (13) The quality assurance assessment collected under
6 subsection (1)(g) and all federal matching funds attributed to
7 that assessment shall be used only for the following purposes and
8 under the following specific circumstances:
9 (a) The quality assurance assessment and all federal
10 matching funds attributed to that assessment shall be used to
11 finance medicaid nursing home reimbursement payments. Only
12 licensed nursing homes and hospital long-term care units that are
13 assessed the quality assurance assessment and participate in the
14 medicaid program are eligible for increased per diem medicaid
15 reimbursement rates under this subdivision. A nursing home or
16 long-term care unit that is assessed the quality assurance
17 assessment and that does not pay the assessment required under
18 subsection (1)(g) in accordance with subdivision (c)(*i*) or in
19 accordance with a written payment agreement with the state shall
20 not receive the increased per diem medicaid reimbursement rates
21 under this subdivision until all of its outstanding quality
22 assurance assessments and any penalties assessed pursuant to
23 subdivision (g) have been paid in full. Nothing in this
24 subdivision shall be construed to authorize or require the
25 department to overspend tax revenue in violation of the
26 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.
27 (b) Except as otherwise provided under subdivision (c),

1 beginning October 1, 2005, the quality assurance assessment is
2 based on the total number of patient days of care each nursing
3 home and hospital long-term care unit provided to nonmedicare
4 patients within the immediately preceding year and shall be
5 assessed at a uniform rate on October 1, 2005 and subsequently on
6 October 1 of each following year, and is payable on a quarterly
7 basis, the first payment due 90 days after the date the
8 assessment is assessed.
9 (c) Within 30 days after September 30, 2005, the department
10 shall submit an application to the federal centers for medicare
11 and medicaid services to request a waiver pursuant to 42 CFR
12 433.68(e) to implement this subdivision as follows:
13 (*i*) If the waiver is approved, the quality assurance
14 assessment rate for a nursing home or hospital long-term care
15 unit with less than 40 licensed beds or with the maximum number,
16 or more than the maximum number, of licensed beds necessary to
17 secure federal approval of the application is $2.00 per
18 nonmedicare patient day of care provided within the immediately
19 preceding year or a rate as otherwise altered on the application
20 for the waiver to obtain federal approval. If the waiver is
21 approved, for all other nursing homes and long-term care units
22 the quality assurance assessment rate is to be calculated by
23 dividing the total statewide maximum allowable assessment
24 permitted under subsection (1)(g) less the total amount to be
25 paid by the nursing homes and long-term care units with less than
26 40 or with the maximum number, or more than the maximum number,
27 of licensed beds necessary to secure federal approval of the

1 application by the total number of nonmedicare patient days of
2 care provided within the immediately preceding year by those
3 nursing homes and long-term care units with more than 39, but
4 less than the maximum number of licensed beds necessary to secure
5 federal approval. The quality assurance assessment, as provided
6 under this subparagraph, shall be assessed in the first quarter
7 after federal approval of the waiver and shall be subsequently
8 assessed on October 1 of each following year, and is payable on a
9 quarterly basis, the first payment due 90 days after the date the
10 assessment is assessed.

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

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

27 (e) Beginning May 10, 2002, the department of community

1 health shall increase the per diem nursing home medicaid
2 reimbursement rates for the balance of that year. For each
3 subsequent year in which the quality assurance assessment is
4 assessed and collected, the department of community health shall
5 maintain the medicaid nursing home reimbursement payment increase
6 financed by the quality assurance assessment.
7 (f) 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 (g) If a nursing home or a hospital long-term care unit
12 fails to pay the assessment required by subsection (1)(g), the
13 department of community health may assess the nursing home or
14 hospital long-term care unit a penalty of 5% of the assessment
15 for each month that the assessment and penalty are not paid up to
16 a maximum of 50% of the assessment. The department of community
17 health may also refer for collection to the department of
18 treasury past due amounts consistent with section 13 of 1941 PA
19 122, MCL 205.13.
20 (h) The medicaid nursing home quality assurance assessment
21 fund is established in the state treasury. The department of
22 community health shall deposit the revenue raised through the
23 quality assurance assessment with the state treasurer for deposit
24 in the medicaid nursing home quality assurance assessment fund.
25 (i) The department of community health shall not implement
26 this subsection in a manner that conflicts with 42 USC 1396b(w).
27 (j) The quality assurance assessment collected under

1 subsection (1)(g) shall be prorated on a quarterly basis for any
2 licensed beds added to or subtracted from a nursing home or
3 hospital long-term care unit since the immediately preceding July
4 1. Any adjustments in payments are due on the next quarterly
5 installment due date.

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

11 (*l*) In fiscal year 2007-2008, $39,900,000.00 of the quality
12 assurance assessment collected pursuant to subsection (1)(g)
13 shall be appropriated to the department of community health to
14 support medicaid expenditures for long-term care services. The
15 state retention amount of the quality assurance assessment
16 collected pursuant to subsection (1)(g) for fiscal year 2008-2009
17 shall be $41,473,500.00, and for each subsequent fiscal year
18 shall be equal to 13.2% of the federal funds generated by the
19 nursing homes and hospital long-term care units quality assurance
20 assessment, including the state retention amount. The state
21 retention amount shall be appropriated each fiscal year to the
22 department of community health to support medicaid expenditures
23 for long-term care services. These funds shall offset an
24 identical amount of general fund/general purpose revenue
25 originally appropriated for that purpose.

26 (14) The quality assurance dedication is an earmarked
27 assessment collected under subsection (1)(h). That assessment and

1 all federal matching funds attributed to that assessment shall be
2 used only for the following purpose and under the following
3 specific circumstances:
4 (a) To maintain the increased medicaid reimbursement rate
5 increases as provided for in subdivision (c).
6 (b) The quality assurance assessment shall be assessed on
7 all net patient revenue, before deduction of expenses, less
8 medicare net revenue, as reported in the most recently available
9 medicare cost report and is payable on a quarterly basis, the
10 first payment due 90 days after the date the assessment is
11 assessed. As used in this subdivision, "medicare net revenue"
12 includes medicare payments and amounts collected for coinsurance
13 and deductibles.
14 (c) Beginning October 1, 2002, the department of community
15 health shall increase the hospital medicaid reimbursement rates
16 for the balance of that year. For each subsequent year in which
17 the quality assurance assessment is assessed and collected, the
18 department of community health shall maintain the hospital
19 medicaid reimbursement rate increase financed by the quality
20 assurance assessments.
21 (d) The department of community health shall implement this
22 section in a manner that complies with federal requirements
23 necessary to assure that the quality assurance assessment
24 qualifies for federal matching funds.
25 (e) If a hospital fails to pay the assessment required by
26 subsection (1)(h), the department of community health may assess
27 the hospital a penalty of 5% of the assessment for each month

1 that the assessment and penalty are not paid up to a maximum of
2 50% of the assessment. The department of community health may
3 also refer for collection to the department of treasury past due
4 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.
5 (f) The hospital quality assurance assessment fund is
6 established in the state treasury. The department of community
7 health shall deposit the revenue raised through the quality
8 assurance assessment with the state treasurer for deposit in the
9 hospital quality assurance assessment fund.
10 (g) In each fiscal year governed by this subsection, the
11 quality assurance assessment shall only be collected and expended
12 if medicaid hospital inpatient DRG and outpatient reimbursement
13 rates and disproportionate share hospital and graduate medical
14 education payments are not below the level of rates and payments
15 in effect on April 1, 2002 as a direct result of the quality
16 assurance assessment collected under subsection (1)(h), except as
17 provided in subdivision (h).
18 (h) The quality assurance assessment collected under
19 subsection (1)(h) shall no longer be assessed or collected after
20 September 30, 2011 in the event that the quality assurance
21 assessment is not eligible for federal matching funds. Any
22 portion of the quality assurance assessment collected from a
23 hospital that is not eligible for federal matching funds shall be
24 returned to the hospital.
25 (i) In fiscal year 2007-2008, $98,850,000.00 of the quality
26 assurance assessment collected pursuant to subsection (1)(h)
27 shall be appropriated to the department of community health to

1 support medicaid expenditures for hospital services and therapy.
2 The state retention amount of the quality assurance assessment
3 collected pursuant to subsection (1)(h) for fiscal year 2008-2009
4 and each subsequent fiscal year shall be equal to 13.2% of the
5 federal funds generated by the hospital quality assurance
6 assessment, including the state retention amount. The state
7 retention percentage shall be applied proportionately to each
8 hospital quality assurance assessment program to determine the
9 retention amount for each program. The state retention amount
10 shall be appropriated each fiscal year to the department of
11 community health to support medicaid expenditures for hospital
12 services and therapy. These funds shall offset an identical
13 amount of general fund/general purpose revenue originally
14 appropriated for that purpose.
15 **(J) TO SUBSIDIZE MI-HEALTH UNDER THE MI-HEALTH ACT.**
16 (15) The quality assurance assessment provided for under
17 this section is a tax that is levied on a health facility or
18 agency.
19 (16) As used in this section, "medicaid" means that term as
20 defined in section 22207.
21 Enacting section 1. This amendatory act does not take effect
22 unless all of the following bills of the 95th Legislature are
23 enacted into law:
24 (a) Senate Bill No. 580.
25
26 (b) Senate Bill No. 581.
27

1 (c) Senate Bill No. 579.

2