HOUSE BILL No. 4734

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June 9, 2011, Introduced by Rep. Lori 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 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:

7 (a) Freestanding surgical
8 outpatient facilities................$238.00 per facility.
9 (b) Hospitals...................$8.28 per licensed bed.

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

27 (2) If a hospital requests the department to conduct a
28 certification survey for purposes of title XVIII or title XIX of
29 the social security act, the hospital shall pay a license fee
30 surcharge of $23.00 per bed. As used in this subsection, "title

1 XVIII" and "title XIX" mean those terms as defined in section
2 20155.
3 (3) The base fee for a certificate of need is $1,500.00 for
4 each application. For a project requiring a projected capital
5 expenditure of more than $500,000.00 but less than $4,000,000.00,
6 an additional fee of $4,000.00 shall be added to the base fee.
7 For a project requiring a projected capital expenditure of
8 $4,000,000.00 or more, an additional fee of $7,000.00 shall be
9 added to the base fee. The department of community health shall
10 use the fees collected under this subsection only to fund the
11 certificate of need program. Funds remaining in the certificate
12 of need program at the end of the fiscal year shall not lapse to
13 the general fund but shall remain available to fund the
14 certificate of need program in subsequent years.
15 (4) If licensure is for more than 1 year, the fees described
16 in subsection (1) are multiplied by the number of years for which
17 the license is issued, and the total amount of the fees shall be
18 collected in the year in which the license is issued.
19 (5) Fees described in this section are payable to the
20 department at the time an application for a license, permit, or
21 certificate is submitted. If an application for a license,
22 permit, or certificate is denied or if a license, permit, or
23 certificate is revoked before its expiration date, the department
24 shall not refund fees paid to the department.
25 (6) The fee for a provisional license or temporary permit is
26 the same as for a license. A license may be issued at the
27 expiration date of a temporary permit without an additional fee

1 for the balance of the period for which the fee was paid if the
2 requirements for licensure are met.
3 (7) The department may charge a fee to recover the cost of
4 purchase or production and distribution of proficiency evaluation
5 samples that are supplied to clinical laboratories pursuant to
6 section 20521(3).
7 (8) In addition to the fees imposed under subsection (1), a
8 clinical laboratory shall submit a fee of $25.00 to the
9 department for each reissuance during the licensure period of the
10 clinical laboratory's license.
11 (9) The cost of licensure activities shall be supported by
12 license fees.
13 (10) The application fee for a waiver under section 21564 is
14 $200.00 plus $40.00 per hour for the professional services and
15 travel expenses directly related to processing the application.
16 The travel expenses shall be calculated in accordance with the
17 state standardized travel regulations of the department of
18 **TECHNOLOGY,** management**,** and budget in effect at the time of the
19 travel.
20 (11) An applicant for licensure or renewal of licensure
21 under part 209 shall pay the applicable fees set forth in part
22 209.
23 (12) Except as otherwise provided in this section, the fees
24 and assessments collected under this section shall be deposited
25 in the state treasury, to the credit of the general fund. The
26 department may use the unreserved fund balance in fees and
27 assessments for the ~~background~~ **CRIMINAL HISTORY** check program

1 required under this article.

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

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

24 (b) Except as otherwise provided under subdivision (c),
25 beginning October 1, 2005, the quality assurance assessment is
26 based on the total number of patient days of care each nursing
27 home and hospital long-term care unit provided to nonmedicare

1 patients within the immediately preceding year and shall be
2 assessed at a uniform rate on October 1, 2005 and subsequently on
3 October 1 of each following year, and is payable on a quarterly
4 basis, the first payment due 90 days after the date the
5 assessment is assessed.
6 (c) Within 30 days after September 30, 2005, the department
7 shall submit an application to the federal centers for medicare
8 and medicaid services to request a waiver pursuant to 42 CFR
9 433.68(e) to implement this subdivision as follows:
10 (*i*) If the waiver is approved, the quality assurance
11 assessment rate for a nursing home or hospital long-term care
12 unit with less than 40 licensed beds or with the maximum number,
13 or more than the maximum number, of licensed beds necessary to
14 secure federal approval of the application is $2.00 per
15 nonmedicare patient day of care provided within the immediately
16 preceding year or a rate as otherwise altered on the application
17 for the waiver to obtain federal approval. If the waiver is
18 approved, for all other nursing homes and long-term care units
19 the quality assurance assessment rate is to be calculated by
20 dividing the total statewide maximum allowable assessment
21 permitted under subsection (1)(g) less the total amount to be
22 paid by the nursing homes and long-term care units with less than
23 40 or with the maximum number, or more than the maximum number,
24 of licensed beds necessary to secure federal approval of the
25 application by the total number of nonmedicare patient days of
26 care provided within the immediately preceding year by those
27 nursing homes and long-term care units with more than 39, but

1 less than the maximum number of licensed beds necessary to secure
2 federal approval. The quality assurance assessment, as provided
3 under this subparagraph, shall be assessed in the first quarter
4 after federal approval of the waiver and shall be subsequently
5 assessed on October 1 of each following year, and is payable on a
6 quarterly basis, the first payment due 90 days after the date the
7 assessment is assessed.

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

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

24 **(D)** ~~(e)~~ Beginning May 10, 2002, the department of community
25 health shall increase the per diem nursing home medicaid
26 reimbursement rates for the balance of that year. For each
27 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.

(E) ~~(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.

(F) ~~(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.

(G) ~~(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.

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

(I) ~~(j)~~ The quality assurance assessment collected under subsection (1)(g) shall be prorated on a quarterly basis for any

1 licensed beds added to or subtracted from a nursing home or
2 hospital long-term care unit since the immediately preceding July
3 1. Any adjustments in payments are due on the next quarterly
4 installment due date.
5 **(J)** ~~(k)~~ In each fiscal year governed by this subsection,
6 medicaid reimbursement rates shall not be reduced below the
7 medicaid reimbursement rates in effect on April 1, 2002 as a
8 direct result of the quality assurance assessment collected under
9 subsection (1)(g).
10 **(K)** ~~*(l)* In fiscal year 2007-2008, $39,900,000.00 of the~~
11 ~~quality assurance assessment collected pursuant to subsection~~
12 ~~(1)(g) shall be appropriated to the department of community~~
13 ~~health to support medicaid expenditures for long-term care~~
14 ~~services.~~ The state retention amount of the quality assurance
15 assessment collected pursuant to subsection (1)(g) ~~for fiscal~~
16 ~~year 2008-2009 shall be $41,473,500.00, and for each subsequent~~
17 ~~fiscal year~~ shall be equal to 13.2% of the federal funds
18 generated by the nursing homes and hospital long-term care units
19 quality assurance assessment, including the state retention
20 amount. The state retention amount shall be appropriated each
21 fiscal year to the department of community health to support
22 medicaid expenditures for long-term care services. These funds
23 shall offset an identical amount of general fund/general purpose
24 revenue originally appropriated for that purpose.
[(L) BEGINNING OCTOBER 1, 2014, THE DEPARTMENT SHALL NO LONGER ASSESS OR COLLECT THE QUALITY ASSURANCE ASSESSMENT OR APPLY FOR FEDERAL MATCHING FUNDS. THE QUALITY ASSURANCE ASSESSMENT COLLECTED UNDER SUBSECTION (1)(G) SHALL NO LONGER BE ASSESSED OR COLLECTED AFTER SEPTEMBER 30, 2011, 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 NURSING HOME OR HOSPITAL LONG-TERM CARE UNIT THAT IS NOT ELIGIBLE FOR FEDERAL MATCHING FUNDS SHALL BE RETURNED TO THE NURSING HOME OR HOSPITAL LONG-TERM CARE UNIT.]
25 (14) The quality assurance dedication is an earmarked

26 assessment collected under subsection (1)(h). That assessment and

27 all federal matching funds attributed to that assessment shall be

1 used only for the following purpose and under the following
2 specific circumstances:
3 (a) To maintain the increased medicaid reimbursement rate
4 increases as provided for in subdivision (c).
5 (b) The quality assurance assessment shall be assessed on
6 all net patient revenue, before deduction of expenses, less
7 medicare net revenue, as reported in the most recently available
8 medicare cost report and is payable on a quarterly basis, the
9 first payment due 90 days after the date the assessment is
10 assessed. As used in this subdivision, "medicare net revenue"
11 includes medicare payments and amounts collected for coinsurance
12 and deductibles.
13 (c) Beginning October 1, 2002, the department of community
14 health shall increase the hospital medicaid reimbursement rates
15 for the balance of that year. For each subsequent year in which
16 the quality assurance assessment is assessed and collected, the
17 department of community health shall maintain the hospital
18 medicaid reimbursement rate increase financed by the quality
19 assurance assessments.
20 (d) The department of community health shall implement this
21 section in a manner that complies with federal requirements
22 necessary to assure that the quality assurance assessment
23 qualifies for federal matching funds.
24 (e) If a hospital fails to pay the assessment required by
25 subsection (1)(h), the department of community health may assess
26 the hospital a penalty of 5% of the assessment for each month
27 that the assessment and penalty are not paid up to a maximum of

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

1 The state retention amount of the quality assurance assessment
2 collected pursuant to subsection (1)(h) ~~for fiscal year 2008-2009~~
3 ~~and each subsequent fiscal year~~ shall be equal to 13.2% of the
4 federal funds generated by the hospital quality assurance
5 assessment, including the state retention amount. The state
6 retention percentage shall be applied proportionately to each
7 hospital quality assurance assessment program to determine the
8 retention amount for each program. The state retention amount
9 shall be appropriated each fiscal year to the department of
10 community health to support medicaid expenditures for hospital
11 services and therapy. These funds shall offset an identical
12 amount of general fund/general purpose revenue originally
13 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.