

Act No. 562
Public Acts of 2002
Approved by the Governor
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senators Bennett, Stille, Schuette, Garcia, Shugars and Gougeon

ENROLLED SENATE BILL No. 1323

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 2803, 2834, 2835, 2848, 2888, and 20161 (MCL 333.2803, 333.2834, 333.2835, 333.2848, 333.2888, and 333.20161), section 2835 as amended by 1999 PA 207 and section 20161 as amended by 2002 PA 303.

The People of the State of Michigan enact:

Sec. 2803. (1) "Dead body" means a human body or fetus, or a part of a dead human body or fetus, in a condition from which it may reasonably be concluded that death has occurred.

(2) "Fetal death" means the death of a fetus which has completed at least 20 weeks of gestation or weighs at least 400 grams. The definition shall conform in all other respects as closely as possible to the definition recommended by the federal agency responsible for vital statistics.

(3) "File" means to present a certificate, report, or other record to the local registrar provided for in this part for registration by the state registrar.

(4) "Final disposition" means the burial, cremation, or other disposition of a dead human body or fetus.

Sec. 2834. (1) A fetal death occurring in this state, as defined by section 2803, shall be reported to the state registrar within 5 days after delivery. The state registrar shall prescribe the form and manner for reporting fetal deaths.

(2) The reporting form shall not contain the name of the biological parents, common identifiers such as social security or drivers license numbers or other information identifiers that would make it possible to identify in any manner or in any circumstances the biological parents of the fetus. A state agency shall not compare data in an information system file with data in another computer system which would result in identifying in any way a woman or father involved in a fetal death. Statistical information which may reveal the identity of the biological parents involved in a fetal death shall not be maintained. This subsection does not apply after June 1, 2003.

(3) If a dead fetus is delivered in an institution, the individual in charge of the institution or his or her authorized representative shall prepare and file the report.

(4) If a dead fetus is delivered outside an institution, the physician in attendance shall prepare and file the report.

(5) If a fetal death occurs without medical attendance at or after the delivery or if inquiry is required by the medical examiner, the attendant, mother, or other person having knowledge of the fetal death shall notify the medical examiner who shall investigate the cause and prepare and file the report.

(6) The reports required under this section and filed before June 1, 2003 are confidential statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics. A schedule for the disposition of these reports shall be provided for by the department. The department or any employee of the department shall not disclose to any person outside the department the reports or the contents of the reports required by this section and filed before June 1, 2003 in any manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the biological parents.

(7) The reports required under this section and filed on or after June 1, 2003 are permanent vital records documents and shall be incorporated into the system of vital statistics as described in section 2805. Access to a fetal death report or information contained on a fetal death report shall be the same as to a live birth record in accordance with sections 2882, 2883, and 2888.

(8) With information provided to the department under subsection (7), the department shall create a certificate of stillbirth which shall conform as nearly as possible to recognized national standardized forms and shall include, but not be limited to, the following information:

(a) The name of the fetus, if it was given a name by the parent or parents.

(b) The number of weeks of gestation completed.

(c) The date of delivery and weight at the time of delivery.

(d) The name of the parent or parents.

(e) The name of the health facility in which the fetus was delivered or the name of the health professional in attendance if the delivery was outside a health facility.

Sec. 2835. (1) As used in this section and section 2837:

(a) "Abortion" means that term as defined in section 17015.

(b) "Physical complication" means a physical condition occurring during or after an abortion that, under generally accepted standards of medical practice, requires medical attention. Physical complication includes, but is not limited to, infection, hemorrhage, cervical laceration, or perforation of the uterus.

(2) A physician who performs an abortion shall report the performance of that procedure to the department on forms prescribed and provided by the department. A physician shall transmit a report required under this subsection to the director within 7 days after the performance of the abortion.

(3) Each report of an abortion required under subsection (2) shall contain only the following information and no other information:

(a) The age of the woman at the time of the abortion.

(b) The marital status of the woman at the time of the abortion.

(c) The race of the woman.

(d) The city or township, county, and state in which the woman resided at the time of the abortion.

(e) The location and type of facility in which the abortion was performed.

(f) The source of referral to the physician performing the abortion.

(g) The number of previous pregnancies carried to term.

(h) The number of previous pregnancies ending in spontaneous abortion.

(i) The number of previous pregnancies terminated by abortion.

(j) The method used before the abortion to confirm the pregnancy, the period of gestation in weeks of the present pregnancy, and the first day of the last menstrual period.

- (k) The method used to perform the abortion.
- (l) The weight of the embryo or fetus, if determinable.
- (m) Whether the fetus showed evidence of life when separated, expelled, or removed from the woman.
- (n) The date of performance of the abortion.
- (o) The method and source of payment for the abortion.

(p) A physical complication or death resulting from the abortion and observed by the physician or reported to the physician or his or her agent before the report required under subsection (2) is transmitted to the director.

- (q) The physician's signature and his or her state license number.

(4) The report required under subsection (2) shall not contain the name of the woman, common identifiers such as her social security number or motor vehicle operator's license number or other information or identifiers that would make it possible to identify in any manner or under any circumstances an individual who has obtained or seeks to obtain an abortion. A state agency shall not compare data in an electronic or other information system file with data in another electronic or other information system that would result in identifying in any manner or under any circumstances an individual obtaining or seeking to obtain an abortion. Statistical information that may reveal the identity of a woman obtaining or seeking to obtain an abortion shall not be maintained.

(5) The department shall destroy each individual report required by this section and each copy of the report after retaining the report for 5 years after the date the report is received.

(6) The department shall make available annually in aggregate a statistical report summarizing the information submitted in each individual report required by this section. The department shall specifically summarize aggregate data regarding all of the following in the annual statistical report:

- (a) The period of gestation in 4-week intervals from 5 weeks through 28 weeks.
- (b) Abortions performed on women aged 17 and under.
- (c) Physical complications reported under subsection (3)(o) and section 2837.

(7) The reports required under this section are statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics.

(8) The department or an employee of the department shall not disclose to a person or entity outside the department the reports or the contents of the reports required by this section in a manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the person who is the subject of the report.

(9) A person who discloses confidential identifying information in violation of this section, section 2834(6), or section 2837 is guilty of a felony punishable by imprisonment for not more than 3 years, or a fine of not more than \$5,000.00, or both.

Sec. 2848. (1) Except as provided in sections 2844 and 2845, a funeral director or person acting as a funeral director, who first assumes custody of a dead body, not later than 72 hours after death or the finding of a dead body and before final disposition of the body, shall obtain authorization for the final disposition. The authorization for final disposition of a dead body shall be issued on a form prescribed by the state registrar and signed by the local registrar or the state registrar.

(2) Before final disposition of a dead fetus, irrespective of the duration of pregnancy, the funeral director or person assuming responsibility for the final disposition of the fetus shall obtain from the parents, or parent in case of an unmarried mother, an authorization for final disposition on a form prescribed and furnished or approved by the state registrar. The authorization may allow final disposition to be by a funeral director, the individual in charge of the institution where the fetus was delivered, or an institution or agency authorized to accept donated bodies or fetuses under this code. After final disposition, the funeral director, the individual in charge of the institution, or other person making the final disposition shall retain the permit for not less than 7 years.

(3) If final disposition is by cremation, the medical examiner of the county in which death occurred shall sign the authorization for final disposition.

(4) A body may be moved from the place of death to be prepared for final disposition with the consent of the physician or county medical examiner who certifies the cause of death.

(5) A permit for disposition issued under the law of another state that accompanies a dead body or dead fetus brought into this state is authorization for final disposition of the dead body or dead fetus in this state.

Sec. 2888. (1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, a person or governmental entity shall not permit inspection of, disclose information contained in vital records, or copy or issue a copy of all or part of a record except as authorized by this part, by rule, or by order of a court of competent jurisdiction. Vital records and information or any part of the information contained in a vital record is not subject to the provisions of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Procedures shall provide for adequate standards of security and confidentiality of vital records.

(2) The department may establish procedures for the disclosure of information contained in vital records for research purposes.

(3) An appeal from a decision of a custodian of permanent local records refusing to disclose information, or to permit inspection of or copying of records under the authority of this section and procedures adopted under section 2896, shall be made to the state registrar, whose decision is binding on the local custodian of permanent local records.

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). That fee 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 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 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 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 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.....	\$ 149,200,000
Gross appropriation.....	\$ 149,200,000
Appropriated from:	
Federal revenues:	
Total federal revenues	82,686,800
Special revenue funds:	
Medicaid quality assurance assessment.....	66,513,500
Total local revenues	0
State general fund/general purpose	\$ 0

(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 the quality assurance 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.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

.....
Governor.