



HOUSE BILL No. 4923

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July 1, 1993, Introduced by Reps. Points, Palamara, Murphy, Kilpatrick, Harrison, Wallace, Shepich, Scott, Saunders, Schroer, Berman, Gire, DeMars, Llewellyn, Dobronski, Stallworth, Baade, Rivers, Joe Young, Jr., Jondahl, Mathieu, Sikkema, Rocca, Clack, Barns, Griffin, Harder, Curtis, Wetters, Freeman, Byrum, Cropsey, Anthony, Pitoniak, Willard, Dolan, Owen, Olshove and Jacobetti and referred to the Committee on Public Health.

A bill to amend section 20155 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 80 of the Public Acts of 1992, being section 333.20155 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 20155 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 80 of the Public Acts of 1992,
3 being section 333.20155 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 20155. (1) Except as provided in this section, the
6 department shall make annual and other visits to each health
7 facility or agency licensed under this article for the purposes
8 of survey, evaluation, and consultation. A VISIT MADE PURSUANT
9 TO A COMPLAINT INVESTIGATION SHALL BE UNANNOUNCED. Except for a

1 health facility or agency described in section 20106(1)(c), (f),
2 or (h), the department shall determine whether ~~the~~ visits
3 ~~shall be~~ THAT ARE NOT MADE PURSUANT TO A COMPLAINT INVESTIGA-
4 TION ARE announced or unannounced. ~~, except that a complaint~~
5 ~~investigation shall not be announced and there~~ IN ADDITION TO
6 VISITS MADE PURSUANT TO A COMPLAINT INVESTIGATION, THE DEPARTMENT
7 shall ~~be~~ ANNUALLY MAKE at least 1 unannounced visit ~~other than~~
8 ~~a complaint investigation annually~~ to a ~~health facility or~~
9 ~~agency described in section 20106(1)(c) or (h)~~ COUNTY MEDICAL
10 CARE FACILITY.

11 (2) The department shall ~~make~~ DO BOTH OF THE FOLLOWING:

12 (A) MAKE at least a biennial visit to each licensed clinical
13 laboratory ~~and each nursing home~~ for the purposes of survey,
14 evaluation, and consultation. ~~If a nursing home is only par-~~
15 ~~tially certified under title XVIII or title XIX, the department~~
16 ~~shall include all licensed parts of the nursing home in a certi-~~
17 ~~fication survey conducted by the department.~~

18 (B) IN ADDITION TO VISITS MADE PURSUANT TO COMPLAINT INVES-
19 TIGATIONS, AT LEAST ONCE ANNUALLY MAKE AN UNANNOUNCED VISIT TO
20 AND INSPECT EACH NURSING HOME LICENSED UNDER THIS ARTICLE,
21 REGARDLESS OF WHETHER THE NURSING HOME IS CERTIFIED UNDER TITLE
22 XVIII OR TITLE XIX.

23 (3) The department shall make a biennial visit to each hos-
24 pital for survey and evaluation for the purpose of licensure.
25 Subject to subsection (6), the department may waive the biennial
26 visit required by this subsection if a hospital, as part of a
27 timely application for license renewal, requests a waiver and

1 submits both of the following and if all of the requirements of
2 subsection (5) are met:

3 (a) Evidence that it is currently fully accredited by a body
4 with expertise in hospital accreditation whose hospital accredit-
5 ations are accepted by the United States department of health and
6 human services for purposes of section 1865 of title XVIII of the
7 social security act, chapter 531, 49 Stat. 620,
8 42 U.S.C. 1395bb.

9 (b) A copy of the most recent accreditation report for the
10 hospital issued by a body described in subdivision (a), and the
11 hospital's responses to the accreditation report.

12 (4) Except as provided in subsection (8), accreditation
13 information provided to the department under subsection (3) is
14 confidential, is not a public record, and is not subject to court
15 subpoena. The department shall use the accreditation information
16 only as provided in this section and shall return the accredit-
17 ation information to the hospital within a reasonable time after
18 a decision on the waiver request is made.

19 (5) The department shall grant a waiver under subsection (3)
20 if the accreditation report submitted under subsection (3)(b) is
21 less than 2 years old and there is no indication of substantial
22 noncompliance with licensure standards or of deficiencies that
23 represent a threat to public safety or patient care in the
24 report, in complaints involving the hospital, or in any other
25 information available to the department. If the accreditation
26 report is 2 or more years old, the department may do 1 of the
27 following:

1 (a) Grant an extension of the hospital's current license
2 until the next accreditation survey is completed by the body
3 described in subsection (3)(a).

4 (b) Grant a waiver under subsection (3) based on the accred-
5 itation report that is 2 or more years old, on condition that the
6 hospital promptly submit the next accreditation report to the
7 department.

8 (c) Deny the waiver request and conduct the visits required
9 under subsection (3).

10 (6) The department shall not grant more than 2 consecutive
11 waivers under subsection (3). This section does not prohibit the
12 department from citing a violation of this part during a survey,
13 conducting investigations or inspections pursuant to
14 section 20156, or conducting surveys of health facilities or
15 agencies for the purpose of complaint investigations or federal
16 certification. This section does not prohibit the state fire
17 marshal from conducting annual surveys of hospitals, nursing
18 homes, and county medical care facilities.

19 (7) At the request of a health facility or agency, the
20 department may conduct a consultation engineering survey of a
21 health facility and provide professional advice and consultation
22 regarding health facility construction and design. A health
23 facility or agency may request a voluntary consultation survey
24 under this subsection at any time between licensure surveys. The
25 fees for a consultation engineering survey are the same as the
26 fees established for waivers under section 20161(10).

1 (8) If the department determines that substantial
2 noncompliance with licensure standards exists or that
3 deficiencies that represent a threat to public safety or patient
4 care exist based on a review of an accreditation report submitted
5 pursuant to subsection (3)(b), the department shall prepare a
6 written summary of the substantial noncompliance or deficiencies
7 and the hospital's response to the department's determination.
8 The department's written summary and the hospital's response are
9 public documents.

10 (9) Investigations or inspections, other than inspections of
11 financial records, of a health facility or agency described in
12 section 20106(1)(c), (f), or (h) shall be conducted without prior
13 notice to the health facility or agency. An employee of a state
14 agency charged with inspecting the health facility or agency or
15 an employee of a local health department who directly or indi-
16 rectly gives prior notice regarding an inspection, other than an
17 inspection of the financial records, to the health facility or
18 agency or to an employee of the health facility or agency, is
19 guilty of a misdemeanor. Consultation visits that are not for
20 the purpose of annual or follow-up inspection or survey may be
21 announced.

22 (10) The department shall maintain a record indicating
23 whether visits are announced or unannounced. Information gath-
24 ered at all visits, announced or unannounced, shall be taken into
25 account in licensure decisions.

26 (11) The department shall require periodic reports and a
27 health facility or agency shall give the department access to

1 books, records, and other documents maintained by a health
2 facility or agency to the extent necessary to carry out the pur-
3 pose of this article and the rules promulgated under this
4 article. The department shall respect the confidentiality of a
5 patient's clinical record and shall not divulge or disclose the
6 contents of the records in a manner that identifies an individual
7 except under court order. The department may copy health facil-
8 ity or agency records as required to document findings.

9 (12) The department may delegate survey, evaluation, or con-
10 sultation functions to another state agency or to a local health
11 department qualified to perform those functions. The delegation
12 shall be by cost reimbursement contract between the department
13 and the state agency or local health department. Survey, evalu-
14 ation, or consultation functions shall not be delegated to non-
15 governmental agencies, except as provided in this section. The
16 department may accept voluntary inspections performed by an
17 accrediting body with expertise in clinical laboratory accredit-
18 ation under part 205 if the accrediting body utilizes forms
19 acceptable to the department, applies the same licensing stan-
20 dards as applied to other clinical laboratories and provides the
21 same information and data usually filed by the department's own
22 employees when engaged in similar inspections or surveys. The
23 voluntary inspection described in this subsection shall be agreed
24 upon by both the licensee and the department.

25 (13) If, upon investigation, the department or a state
26 agency determines that an individual licensed to practice a
27 profession in this state has violated the applicable licensure

1 statute or the rules promulgated under that statute, the
2 department, state agency, or local health department shall for-
3 ward the evidence it has to the appropriate licensing agency.

4 (14) As used in this section:

5 (a) "Title XVIII" means title XVIII of the social security
6 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,
7 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to
8 1395w-2, 1395w-4 to 1395zz, and 1395bbb to 1395ccc.

9 (b) "Title XIX" means title XIX of the social security act,
10 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f and 1396i to
11 1396u.