



**House
Legislative
Analysis
Section**

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HEALTH FACILITY INSPECTIONS

Senate Bill 515 (Substitute H-1)
First Analysis (5-12-92)

Sponsor: Sen. John Pridnia
Senate Committee: Health Policy
House Committee: Public Health

THE APPARENT PROBLEM:

Currently, the Public Health Code requires the Department of Public Health (DPH) to conduct biennial licensure inspections of hospitals and annual inspections of nursing homes. In fiscal years 1990-91 and 1991-92, there was a reduction in state general funds predicated on biennial visits to nursing homes and private accreditation surveys for hospitals. Legislation has been proposed to enact these changes and effect the anticipated savings in state expenditures.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to allow the Department of Public Health to waive the required biennial licensure visits to hospitals for up to four years if the hospital had been accredited by an acceptable private accreditation body, and to require the department to make biennial rather than annual visits to nursing homes.

Hospitals. More specifically, the bill would allow the DPH to waive the required biennial licensure visit to hospitals if (a) the hospital were fully accredited by a body with expertise in hospital accreditation whose hospital accreditation were accepted by the U.S. Department of Health and Human Services and if (b) there was no indication that the hospital was in "substantial noncompliance" with licensure standards or of other deficiencies posing a threats to public safety or patient care. If, based on a review of an accreditation report, the department determined that a hospital was in substantial noncompliance with licensure standards or there were deficiencies posing a threat to public safety or patient care, the department would have to summarize in writing (that would be available to the public) the deviations or deficiencies. The department could not grant more than two consecutive waivers, and hospitals requesting such waivers would have to submit a copy of their most recent accreditation report (which would normally

have to be less than two years old). Accreditation information given to the department would be confidential, not a public record, and not subject to court subpoena.

Other provisions. The bill also would allow the DPH to conduct, at the request of a health facility or agency, a consultation engineering survey and give professional advice and consultation about construction and design. Fees for such a survey would be the same as fees for waivers of licensure requirements of hospitals with fewer than 100 beds located in a nonurbanized area (\$200 plus \$40 per hour and travel expenses).

MCL 333.20155

HOUSE COMMITTEE ACTION:

The House Committee on Public Health adopted Substitute H-1, which would require the Department of Public Health to prepare a written report on the deficiencies of a hospital requesting a waiver of the biennial visit if a review of an accreditation report showed that the hospital were in substantial noncompliance with licensing standards or had other problems which posed a threat to public safety or patient care.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that there would be a savings of \$700,000 to the state. More specifically, in fiscal years 1990-91 and 1991-92 there was a reduction of \$400,000 in state general funds associated with acceptance of private accreditation survey for hospitals and a reduction of \$300,000 in association with the change to biennial visits to nursing homes. (5-5-92)

Senate Bill 515 (5-15-92)

ARGUMENTS:

For:

Allowing private accreditation for hospitals would free up DPH staff for nursing homes, while allowing biennial visits to nursing homes would allow the state to shift most of the costs of nursing home visits to the federal government.

Currently, the federal government pays the Department of Public Health for inspection of five percent of the hospitals that are privately accredited (by the Joint Committee on the Accreditation of Hospitals) and for annual visits to certify nursing homes for Medicaid and Medicare. The DPH would continue to conduct federally-funded hospital surveys annually on a random basis, even if the hospitals visited were granted waivers. Under the bill, the department would be able to transfer staff time now devoted to state-funded visits to hospitals to visits to nursing homes, which are eligible for federal reimbursement. Currently, because the DPH conducts annual nursing home surveys to comply with three requirements (the state requirement and the two federal -- Medicaid and Medicare -- requirements) the costs for the annual nursing home visit are divided between the state and federal government. The state pays for one-third, while the federal government pays for almost two-thirds (one third for Medicare and one-third for Medicaid, which has an 85 percent federal/15 percent state match). Under the bill, which provides for biennial inspections, the state would continue to visit most nursing homes annually to survey for Medicare and Medicaid. The only difference would be that nursing homes without Medicaid or Medicare certification (estimates of the number of such homes ranges from 13 to 22 out of approximately 450 homes) would be visited biennially, while the state would have to pay for its one-third of the visits every other year (plus the 15 percent match required under Medicaid).

The bill would give statutory authority to budget reductions already implemented in fiscal years 1990-91 and 1991-92, thus saving the state money by maximizing federal funding that is available for certification surveys, and thereby also enabling the state to focus its inspection efforts on known problem areas.

Against:

Every nursing home ought to be visited by a survey team (a registered nurse, a dietician, a sanitarian,

and a social worker) at least once a year. Every nursing home ought to have its medications protocol observed once a year, its residents and families interviewed once a year on how things are going in the facility, its kitchens inspected once a year, and be checked for sufficient linens, chairs, and clean bathrooms once a year. The bill appears to be motivated mainly to increase federal dollars to the state, and not because the state believes that nursing homes need less oversight. While the state should indeed maximize its federal dollars, the additional staff time and the federal money collected under the bill still will not solve the health department's staffing problems and these changes should not be done at the expense of the frail elderly and disabled residents of nursing homes.

Response:

The only nursing homes affected by the bill's provisions are those that are not certified for Medicaid or Medicare, and these homes, typically, are the ones wealthy enough to accept only private pay patients. Presumably, these homes also would be least likely to try to cut corners that, in the long run, would put them out of business because people would refuse to stay in them. Besides, out of the 450 nursing homes in the state, only 13 to 22 would be affected by the bill, and the DPH would continue to investigate any complaints it received about them. The biennial visits proposed in the bill apply only to licensure and certification requirements, not complaint investigations, which would continue to occur in response to complaints.

Against:

The bill would make the private accreditation agency reports, upon which the Department of Public Health would base its licensure decisions, confidential. In fact, the bill specifies that these reports would not even be available under court subpoena. But under current law, DPH inspection reports are a matter of public record. The information upon which the department bases its licensure decisions should remain open to the public.

POSITIONS:

The Department of Public Health supports the bill.
(5-8-92)

The Michigan Hospital Association supports the bill. (5-11-92)

Citizens for Better Care submitted written testimony in opposition to the bill dated May 7, 1992.