

HOUSE BILL No. 5218

October 3, 1991, Introduced by Reps. Hunter, Bennane, Gire, Scott, Yokich, Palamara, Gubow, Barns and Rocca and referred to the Committee on Public Health.

A bill to amend sections 2619, 2637, 5413, 5501, 5715, 5721, 20155, 20175, 20201, 21025, 21743, and 22210 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 2619 as added by Act No. 82 of the Public Acts of 1984, section 5413 as added by Act No. 122 of the Public Acts of 1988, section 5501 as added by Act No. 442 of the Public Acts of 1988, section 5715 as added by Act No. 48 of the Public Acts of 1987, section 5721 as amended by Act No. 236 of the Public Acts of 1988, section 20155 as amended by Act No. 474 of the Public Acts of 1982, section 20175 as amended by Act No. 174 of the Public Acts of 1986, sections 20201 and 21025 as amended by Act No. 354 of the Public Acts of 1982, and section 22210 as amended by Act No. 260 of the Public Acts of 1990, being sections 333.2619, 333.2637, 333.5413, 333.5501, 333.5715, 333.5721, 333.20155,

333.20175, 333.20201, 333.21025, 333.21743, and 333.22210 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2619, 2637, 5413, 5501, 5715, 5721,
2 20155, 20175, 20201, 21025, 21743, and 22210 of Act No. 368 of
3 the Public Acts of 1978, section 2619 as added by Act No. 82 of
4 the Public Acts of 1984, section 5413 as added by Act No. 122 of
5 the Public Acts of 1988, section 5501 as added by Act No. 442 of
6 the Public Acts of 1988, section 5715 as added by Act No. 48 of
7 the Public Acts of 1987, section 5721 as amended by Act No. 236
8 of the Public Acts of 1988, section 20155 as amended by Act
9 No. 474 of the Public Acts of 1982, section 20175 as amended by
10 Act No. 174 of the Public Acts of 1986, sections 20201 and 21025
11 as amended by Act No. 354 of the Public Acts of 1982, and section
12 22210 as amended by Act No. 260 of the Public Acts of 1990, being
13 sections 333.2619, 333.2637, 333.5413, 333.5501, 333.5715,
14 333.5721, 333.20155, 333.20175, 333.20201, 333.21025, 333.21743,
15 and 333.22210 of the Michigan Compiled Laws, are amended to read
16 as follows:

17 Sec. 2619. (1) The department shall establish a registry to
18 record cases of cancer and other specified tumorous and precancerous
19 diseases that occur in the state, and to record information
20 concerning these cases as the department considers necessary
21 and appropriate in order to conduct epidemiologic surveys of
22 cancer and cancer-related diseases in the state.

23 (2) Each diagnosed case of cancer and other specified
24 tumorous and precancerous diseases shall be reported to the

1 department pursuant to subsection (4), or reported to a cancer
2 reporting registry if the cancer reporting registry meets stan-
3 dards established pursuant to subsection (4) to ensure the accu-
4 racy and completeness of the reported information. A person or
5 facility required to report a diagnosis pursuant to subsection
6 (4) may elect to report the diagnosis to the state through an
7 existing cancer registry only if the registry meets minimum
8 reporting standards established by the department.

9 (3) The department shall maintain comprehensive records of
10 all reports submitted pursuant to this section. ~~These reports~~
11 ~~shall be~~ THE REPORTS MAINTAINED UNDER THIS SUBSECTION ARE
12 subject to the ~~same requirements of confidentiality as provided~~
13 ~~in section 2631 for data or records concerning medical research~~
14 ~~projects~~ HEALTH CARE INFORMATION ACT.

15 (4) The director shall promulgate rules ~~which~~ THAT provide
16 for all of the following:

17 (a) A list of tumorous and precancerous diseases other than
18 cancer to be reported pursuant to subsection (2).

19 (b) The quality and manner in which the cases and other
20 information described in subsection (1) are reported to the
21 department.

22 (c) ~~The~~ SUBJECT TO THE HEALTH CARE INFORMATION ACT, THE
23 terms and conditions under which records disclosing the name and
24 medical condition of a specific individual and kept pursuant to
25 this section are released by the department.

26 (5) This section does not compel an individual to submit to
27 medical or department examination or supervision.

1 (6) The department may contract for the collection and
2 analysis of, and research related to, the epidemiologic data
3 required under this section.

4 (7) Within 2 years after the effective date of this section,
5 the department shall begin evaluating the reports collected pur-
6 suant to subsection (2). The department shall publish and make
7 available to the public reports summarizing the information
8 collected. The first summary report shall be published not later
9 than ~~180 days after the end of the first 2 full calendar years~~
10 ~~after the effective date of this section~~ JANUARY 1, 1987.

11 Subsequent annual summary reports shall be made on a full calen-
12 dar year basis and published not later than 180 days after the
13 end of each calendar year.

14 (8) Reporting pursuant to subsection (2) shall begin ~~the~~
15 ~~next calendar year after the effective date of this section~~
16 JULY 1, 1985.

17 ~~(9) This section shall take effect July 1, 1984.~~

18 Sec. 2637. (1) The department shall ~~establish procedures~~
19 PROMULGATE RULES pursuant to section 2678 to protect the confi-
20 dentiality ~~of,~~ and regulate the disclosure of ~~,~~ data and
21 records contained in a departmental data system or system of
22 records.

23 (2) The ~~procedures~~ RULES DESCRIBED IN SUBSECTION (1) shall
24 be consistent with the policy established under sections 2611 and
25 2613 AND WITH THE HEALTH CARE INFORMATION ACT.

26 (3) The ~~procedures~~ RULES DESCRIBED IN SUBSECTION (1) shall
27 specify the data contained in a departmental data system or

1 system of records ~~which~~ THAT shall not be disclosed unless
2 items identifying a person by name, address, number, symbol, or
3 any other identifying particular are deleted.

4 (4) The ~~procedures~~ RULES DESCRIBED IN SUBSECTION (1) shall
5 regulate the use and disclosure of data contained in a departmen-
6 tal data system or system of records released to researchers,
7 other persons, including designated medical research projects as
8 defined in section 2631, or governmental entities. A person who
9 receives data pursuant to this section shall not disclose an item
10 of information contained in the data except in conformance with
11 the authority granted by the department and with the purpose for
12 which the data was originally requested by the researcher. The
13 director may contract with researchers or other persons to imple-
14 ment and enforce this subsection. A contract made pursuant to
15 this subsection shall MEET AT LEAST BOTH OF THE FOLLOWING
16 REQUIREMENTS:

17 (a) Require the department to provide monitoring to assure
18 compliance with this section.

19 (b) Provide for termination if this section or the contract
20 is violated.

21 (5) An officer or employee of the department shall not dis-
22 close data contained in a departmental data system or system of
23 records except as authorized in the ~~procedures adopted pursuant~~
24 ~~to this section~~ RULES DESCRIBED IN SUBSECTION (1).

25 (6) The department periodically shall review the ~~procedures~~
26 ~~adopted under this section~~ RULES DESCRIBED IN SUBSECTION (1).

1 (7) A person whose contract is terminated pursuant to
2 subsection (4)(b) is not eligible to make a subsequent contract
3 with the department.

4 Sec. 5413. (1) The department shall establish a registry to
5 record cases of spinal cord injury and traumatic brain injury
6 that occur in the state ~~—~~ and ~~to record~~ information concern-
7 ing these cases. Subject to subsection (3), the information
8 shall be supplied to persons seeking to apply appropriate preven-
9 tive and control measures.

10 (2) The director shall require by rule the reporting by hos-
11 pitals of cases of spinal cord injury and traumatic brain injury
12 and the submission of specified additional information on
13 reported cases or control populations as the director considers
14 necessary and appropriate for the recognition, prevention, or
15 control of spinal cord injury and traumatic brain injury.

16 (3) The department shall maintain comprehensive records of
17 all reports submitted pursuant to this section. ~~These reports~~
18 ~~shall be confidential and shall be released by the department~~
19 ~~only upon written request of the person who is the subject of the~~
20 ~~report, or his or her guardian, executor, attorney, or other~~
21 ~~person designated in writing by the person who is the subject of~~
22 ~~the report. The reports and records or information contained in~~
23 ~~the reports may also be released by the department to persons~~
24 ~~authorized by the director to conduct research studies or to~~
25 ~~other persons with whom the director enters into a contract for~~
26 ~~data collection, data maintenance, data storage, data retrieval,~~

1 ~~and quality control.~~ THE REPORTS MAINTAINED UNDER THIS
2 SUBSECTION ARE SUBJECT TO THE HEALTH CARE INFORMATION ACT.

3 (4) This section does not compel an individual to submit to
4 medical or department examination or supervision.

5 (5) The director shall promulgate rules to implement this
6 section.

7 (6) As used in this section and section 5414, "traumatic
8 brain injury" means an insult to the brain, not of a degenerative
9 or congenital nature, that may produce a diminished or altered
10 state of consciousness, and ~~which~~ THAT results in impairment of
11 cognitive abilities or physical functioning.

12 (7) This section is repealed effective ~~upon the expiration~~
13 ~~of 3 years after its effective date~~ MARCH 31, 1992.

14 Sec. 5501. (1) The department shall establish a registry to
15 record cases of Alzheimer's disease and related disorders that
16 occur in the state, and to record information concerning these
17 cases as the department considers necessary and appropriate in
18 order to conduct epidemiologic surveys.

19 (2) Each case of Alzheimer's disease or a related disorder
20 shall be reported to the department by the diagnosing physician
21 pursuant to subsection (4).

22 (3) The department shall maintain comprehensive records of
23 all reports submitted pursuant to this section. ~~These reports~~
24 ~~shall be subject to the same requirements of confidentiality as~~
25 ~~provided in section 2631 for data or records concerning medical~~
26 ~~research projects.~~ THE REPORTS MAINTAINED UNDER THIS SUBSECTION
27 ARE SUBJECT TO THE HEALTH CARE INFORMATION ACT.

1 (4) The director shall promulgate rules that provide for all
2 of the following:

3 (a) A list of related disorders other than Alzheimer's dis-
4 ease to be reported pursuant to subsection (2).

5 (b) The quality and manner in which the cases and other
6 information described in subsection (1) are reported to the
7 department.

8 (c) ~~The~~ SUBJECT TO THE HEALTH CARE INFORMATION ACT, THE
9 terms and conditions under which records disclosing the name and
10 medical condition of a specific individual and kept pursuant to
11 this section are released by the department.

12 (d) The collection of information describing the character-
13 ization of the progression, symptoms, and behavior patterns of
14 Alzheimer's disease and related disorders.

15 (5) This section does not compel an individual to submit to
16 medical or department examination or supervision.

17 (6) The department may contract for the collection and anal-
18 ysis of, and research related to, the epidemiologic data required
19 under this section.

20 (7) ~~Within 2 years after the effective date of this~~
21 ~~section~~ BY DECEMBER 27, 1990, the department shall begin evalu-
22 ating the reports collected under this section. The department
23 shall publish and make available to the public reports summariz-
24 ing the information collected. The first summary report shall be
25 published not later than ~~180 days after the end of 2 years after~~
26 ~~the effective date of this section~~ JUNE 27, 1991. Subsequent

1 annual summary reports shall be published not later than 180 days
2 after the end of each year.

3 (8) Reporting pursuant to subsection (2) shall begin
4 January 1, 1990. ~~of the calendar year after the effective date~~
5 ~~of this section.~~

6 (9) This section is repealed effective ~~upon the expiration~~
7 ~~of 3 years after it is enacted into law~~ DECEMBER 27, 1991.

8 Sec. 5715. (1) A departmental report under section 5703 or
9 5713, or other compilation of information collected under this
10 part, unless it discloses the identity of an individual who does
11 not consent to the disclosure, is public information, and shall
12 be made available in accordance with the freedom of information
13 act, Act No. 442 of the Public Acts of 1976, being sections
14 15.231 to 15.246 of the Michigan Compiled Laws.

15 (2) Medical information about an individual that is gathered
16 under this part is confidential and ~~shall be subject to the same~~
17 ~~requirements of confidentiality as provided in section 2631 for~~
18 ~~data or records concerning medical research projects~~ IS SUBJECT
19 TO THE HEALTH CARE INFORMATION ACT.

20 Sec. 5721. (1) Each diagnosed incidence of a birth defect,
21 including a congenital or structural malformation, or a biochemi-
22 cal or genetic disease, and any information relevant to incidents
23 of birth defects, shall be reported to the department. The
24 reporting shall begin not later than the next calendar year after
25 June 11, 1987.

26 (2) The department shall maintain comprehensive statewide
27 records of all information reported to the birth defects

1 registry. The information reported ~~shall be subject to the same~~
2 ~~requirements of confidentiality as provided in section 2631 for~~
3 ~~data or records concerning medical research projects~~ IS SUBJECT
4 TO THE HEALTH CARE INFORMATION ACT.

5 (3) The director shall promulgate rules ~~which~~ THAT provide
6 for all of the following:

7 (a) A list of birth defects, including, but not limited to,
8 congenital and structural malformations, and biochemical or gene-
9 tic diseases, and other relevant information to be reported.

10 (b) The quality and manner in which the incidents of birth
11 defects and other information is to be reported.

12 (c) ~~The~~ SUBJECT TO THE HEALTH CARE INFORMATION ACT, THE
13 terms and conditions under which records maintained under this
14 section, including any records containing the name and medical
15 condition of a specific individual, may be released by the
16 department.

17 (4) This section does not compel an individual to submit to
18 medical examination or supervision by the department or
19 otherwise.

20 (5) The department may contract for the collection and anal-
21 ysis of, and research related to, the data required under this
22 section.

23 (6) Within 2 years after June 11, 1987, the department shall
24 begin evaluating the information reported to the birth defects
25 registry. The department shall publish and make available to the
26 public reports summarizing the information collected. The first
27 summary report shall be published not later than 180 days after

1 the end of the first 2 full calendar years after June 11, 1987.
2 Subsequent annual summary reports shall be made on a full calen-
3 dar year basis and published not later than 180 days after the
4 end of each calendar year.

5 Sec. 20155. (1) Except as provided ~~for clinical~~
6 ~~laboratories~~ in THIS section, ~~20511,~~ the department shall make
7 annual and other visits to EACH health ~~facilities and agencies~~
8 ~~covered by~~ FACILITY OR AGENCY LICENSED UNDER this article ~~7~~
9 ~~other than a licensee under part 215,~~ for the purposes of
10 survey, evaluation, and consultation. Except for ~~facilities~~ A
11 HEALTH FACILITY OR AGENCY described in section 20106(1)(f) ~~and~~
12 OR (h), the department shall determine whether the visits shall
13 be announced or unannounced, except that a complaint investiga-
14 tion shall not be announced and ~~there shall be~~ EXCEPT THAT THE
15 DEPARTMENT SHALL MAKE at least 1 unannounced visit other than a
16 complaint investigation annually to ~~the facilities~~ A HEALTH
17 FACILITY OR AGENCY described in section 20106(1)(c) ~~and~~ OR
18 (d).

19 (2) THE DEPARTMENT SHALL MAKE AT LEAST A BIENNIAL VISIT TO
20 EACH LICENSED CLINICAL LABORATORY FOR THE PURPOSE OF SURVEY,
21 EVALUATION, AND CONSULTATION.

22 (3) The department shall make biennial visits to hospitals
23 for survey ~~7~~ and for evaluation for the purpose of licensure.
24 ~~However, this requirement shall not be construed to~~ THIS SUB-
25 SECTION DOES NOT prohibit the department from conducting investi-
26 gations or inspections pursuant to section 20156 ~~7~~ or from
27 conducting surveys of hospitals for the purpose of complaint

1 investigation or federal certification. ~~, nor to preclude~~ THIS
2 SUBSECTION DOES NOT PROHIBIT the state fire marshal from conduct-
3 ing annual surveys of hospitals.

4 (4) ~~(2) Investigations or inspections~~ THE DEPARTMENT SHALL
5 CONDUCT AN INVESTIGATION OR INSPECTION, other than ~~inspections~~
6 AN INSPECTION of financial records, of ~~facilities~~ A HEALTH
7 FACILITY OR AGENCY described in section 20106(1)(f) ~~and~~ OR (h)
8 ~~shall be conducted~~ without prior notice to the HEALTH facility
9 OR AGENCY. An employee of a state agency charged with inspecting
10 the facility or an employee of a local health department who
11 directly or indirectly gives prior notice regarding an inspec-
12 tion, other than an inspection of the financial records, to the
13 HEALTH facility OR AGENCY or to an employee ~~thereof~~ OF THE
14 HEALTH FACILITY OR AGENCY, is guilty of a misdemeanor.
15 ~~Consultation visits,~~ THE DEPARTMENT MAY ANNOUNCE A CONSULTATION
16 VISIT THAT IS not for the purpose of annual or follow-up inspec-
17 tion or survey. ~~, may be announced.~~

18 (5) ~~(3)~~ The department shall maintain a record indicating
19 whether visits are announced or unannounced. ~~Information~~ THE
20 DEPARTMENT SHALL TAKE INTO ACCOUNT IN LICENSURE DECISIONS
21 INFORMATION gathered at all visits, WHETHER announced or
22 unannounced. ~~, shall be taken into account in licensure~~
23 ~~decisions.~~

24 (6) ~~(4)~~ The department shall require periodic reports and
25 shall have access to books, records, and other documents main-
26 tained by a health facility or agency to the extent necessary to
27 carry out the purpose of this article and the rules promulgated

1 under this article. ~~The department shall~~ WITH respect TO the
2 confidentiality of a patient's clinical record, ~~and shall not~~
3 ~~divulge or disclose the contents of the records in a manner which~~
4 ~~identifies an individual except under court order~~ THE DEPARTMENT
5 SHALL COMPLY WITH THE HEALTH CARE INFORMATION ACT. The depart-
6 ment ~~has the right to~~ MAY copy health facility or agency
7 records as required to document findings.

8 (7) ~~(5)~~ The department may delegate survey, evaluation, or
9 consultation functions to another state agency or to a local
10 health department qualified to perform ~~them~~ THOSE FUNCTIONS.
11 The delegation shall be by cost reimbursement contract between
12 the department and the state agency or local health department.
13 ~~Survey~~ THE DEPARTMENT SHALL NOT DELEGATE SURVEY, evaluation, or
14 consultation functions ~~shall not be delegated~~ to nongovernmen-
15 tal agencies, except as provided in this section. The department
16 may accept A voluntary ~~inspections of~~ INSPECTION OF A CLINICAL
17 LABORATORY UNDER PART 205 PERFORMED BY an accrediting body with
18 expertise in clinical laboratory accreditation ~~to perform~~
19 ~~inspections and surveys under part 205 provided that~~ IF the
20 accrediting body utilizes forms acceptable to the department,
21 applies the same licensing standards as applied to other clinical
22 laboratories and provides the same information and data usually
23 filed by the department's own employees when engaged in similar
24 inspections or surveys. This voluntary inspection shall be
25 agreed upon by both the licensee and the department.

26 (8) ~~(6)~~ If, upon investigation, the department or a state
27 agency OR A LOCAL HEALTH DEPARTMENT determines that a person

1 licensed to practice a profession in this state has violated
2 ~~the~~ AN applicable licensure statute or the rules promulgated
3 under that statute, the department, state agency, or local health
4 department shall forward the evidence it has to the appropriate
5 licensing agency.

6 Sec. 20175. (1) A health facility or agency shall keep and
7 maintain a record for each patient including a full and complete
8 record of tests and examinations performed, observations made,
9 treatments provided, and in the case of a hospital, the purpose
10 of hospitalization. In addition to the sanctions set forth in
11 section 20165, a hospital ~~which~~ THAT fails to comply with this
12 subsection ~~shall be~~ IS subject to a civil fine of \$10,000.00.

13 (2) A hospital shall take precautions to assure that the
14 records required by subsection (1) are not wrongfully altered or
15 destroyed. A hospital ~~which~~ THAT fails to comply with this
16 subsection ~~shall be~~ IS subject to a civil fine of \$10,000.00.

17 (3) Unless otherwise provided by law, the licensing and cer-
18 tification records required by this article are public records.

19 (4) Departmental officers and employees shall respect the
20 confidentiality of patient clinical records and shall ~~not~~
21 ~~divulge or disclose the contents of records in a manner which~~
22 ~~identifies an individual except on court order~~ COMPLY WITH THE
23 HEALTH CARE INFORMATION ACT.

24 (5) A health facility or agency with a medical staff shall
25 report to the appropriate licensing board and to the department
26 not more than 30 days after any disciplinary action has been
27 taken against a member of the medical staff, and the relevant

1 circumstances OF THE DISCIPLINARY ACTION, for any of the grounds
2 set forth in section 16221.

3 (6) The records, data, and knowledge collected for or by
4 individuals or committees assigned a professional review function
5 in a health facility or agency are confidential, shall be used
6 only for the purposes provided in this article, are not public
7 records, ~~and~~ are not subject to court subpoena, AND, IF APPLI-
8 CABLE, ARE SUBJECT TO THE HEALTH CARE INFORMATION ACT.

9 Sec. 20201. (1) ~~A~~ SUBJECT TO SECTION 20203, A health
10 facility or agency ~~which~~ THAT provides services directly to
11 patients or residents and ~~which~~ is licensed under this article
12 shall adopt a policy describing the rights and responsibilities
13 of patients or residents admitted to the health facility or
14 agency. Except for a licensed health maintenance organization
15 which shall comply with section 21086, ~~the policy shall be~~
16 ~~posted~~ A HEALTH FACILITY OR AGENCY SHALL POST THE POLICY at a
17 public place in the HEALTH facility OR AGENCY and shall ~~be~~
18 ~~provided~~ PROVIDE A COPY OF THE POLICY to each member of ~~the~~
19 ~~facility~~ ITS staff. ~~Patients~~ A HEALTH FACILITY OR AGENCY
20 SHALL TREAT PATIENTS or residents ~~shall be treated~~ in accord-
21 ance with the policy.

22 (2) The policy describing the rights and responsibilities of
23 patients or residents shall include, ~~as~~ AT a minimum, ALL OF
24 THE FOLLOWING:

25 (a) A patient or resident will not be denied appropriate
26 care on the basis of race, religion, color, national origin, sex,

1 age, handicap, marital status, sexual preference, or source of
2 payment.

3 (b) ~~An individual who is or has been a patient or resident~~
4 ~~is entitled to inspect, or receive for a reasonable fee, a copy~~
5 ~~of his or her medical record upon request. A third party shall~~
6 ~~not be given a copy of the patient's or resident's medical record~~
7 ~~without prior authorization of the patient.~~ MEDICAL RECORDS
8 RETAINED BY A HEALTH FACILITY OR AGENCY ARE SUBJECT TO THE HEALTH
9 CARE INFORMATION ACT.

10 (c) A patient or resident is entitled to confidential treat-
11 ment of personal ~~and medical~~ records, and may refuse their
12 release to a person outside the facility except as required
13 because of a transfer to another health care facility or as
14 required by law or third party payment contract.

15 (d) A patient or resident is entitled to privacy, to the
16 extent feasible, in treatment and in caring for personal needs
17 with consideration, respect, and full recognition of his or her
18 dignity and individuality.

19 (e) A patient or resident is entitled to receive adequate
20 and appropriate care, and to receive, from the appropriate indi-
21 vidual within the HEALTH facility OR AGENCY, information about
22 his or her medical condition, proposed course of treatment, and
23 prospects for recovery, in terms that the patient or resident can
24 understand, unless medically contraindicated as documented by the
25 attending physician in the PATIENT'S OR RESIDENT'S medical
26 record.

1 (f) A patient or resident is entitled to refuse treatment to
2 the extent provided by law and to be informed of the consequences
3 of that refusal. When a refusal of treatment prevents a health
4 facility OR AGENCY or its staff from providing appropriate care
5 according to ethical and professional standards, the relationship
6 with the patient or resident may be terminated upon reasonable
7 notice.

8 (g) A patient or resident is entitled to exercise his or her
9 rights as a patient or resident and as a citizen, and to this end
10 may present grievances or recommend changes in policies and serv-
11 ices on behalf of himself or herself or others to the HEALTH
12 facility OR AGENCY staff, to governmental officials, or to
13 another person of his or her choice within or outside the HEALTH
14 facility OR AGENCY, free from restraint, interference, coercion,
15 discrimination, or reprisal. A patient or resident is entitled
16 to information about the HEALTH facility's OR AGENCY'S policies
17 and procedures for initiation, review, and resolution of patient
18 or resident complaints.

19 (h) A patient or resident is entitled to information con-
20 cerning an experimental procedure proposed as a part of his or
21 her care and ~~shall have~~ HAS the right to refuse to participate
22 in the experiment without jeopardizing his or her continuing
23 care.

24 (i) A patient or resident is entitled to receive and examine
25 an explanation of his or her bill regardless of the source of
26 payment and to receive, upon request, information relating to

1 financial assistance available through the HEALTH facility OR
2 AGENCY.

3 (j) A patient or resident is entitled to know who is respon-
4 sible for and who is providing his or her direct care, is enti-
5 tled to receive information concerning his or her continuing
6 health needs and alternatives for meeting those needs, and to be
7 involved in his or her discharge planning, if appropriate.

8 (k) A patient or resident is entitled to associate and have
9 private communications and consultations with his or her physi-
10 cian, attorney, or any other person of his or her choice and to
11 send and receive personal mail unopened on the same day it is
12 received at the health facility or agency, unless medically con-
13 traindicated as documented by the attending physician in the
14 PATIENT'S OR RESIDENT'S medical record. A patient's or
15 resident's civil and religious liberties, including the right to
16 independent personal decisions and the right to knowledge of
17 available choices, shall not be infringed and the HEALTH facility
18 OR AGENCY shall encourage and assist in the fullest possible
19 exercise of these rights. A patient or resident may meet with,
20 and participate in, the activities of social, religious, and com-
21 munity groups at his or her discretion, unless medically contra-
22 indicated as documented by the attending physician in the
23 PATIENT'S OR RESIDENT'S medical record.

24 (l) A patient or resident is entitled to be free from mental
25 and physical abuse and from physical and chemical restraints,
26 except those restraints authorized in writing by the attending
27 physician for a specified and limited time or as are necessitated

1 by an emergency to protect the patient or resident from injury to
2 self or others, in which case the restraint may only be applied
3 by a qualified professional who shall set forth in writing the
4 circumstances requiring the use of restraints and who shall
5 promptly report the action to the attending physician. In case
6 of a chemical restraint a physician shall be consulted within 24
7 hours after the commencement of the restraint.

8 (m) A patient or resident is entitled to be free from per-
9 forming services for the HEALTH facility OR AGENCY that are not
10 included for therapeutic purposes in the plan of care.

11 (n) A patient or resident is entitled to information about
12 the health facility OR AGENCY rules and regulations affecting
13 patient or resident care and conduct.

14 (3) The following additional requirements for the policy
15 described in subsection (2) ~~shall~~ apply to licensees under
16 parts 213 and 217:

17 (a) The policy shall be provided to each nursing home
18 patient or home for the aged resident upon admission, and the
19 staff of the ~~facility~~ NURSING HOME OR HOME FOR THE AGED shall
20 be trained and involved in the implementation of the policy.

21 (b) Each nursing home patient may associate and communicate
22 privately with persons of his or her choice. Reasonable, regular
23 visiting hours, which shall be not less than 8 hours per day, and
24 which shall take into consideration the special circumstances of
25 each visitor, shall be established for patients to receive
26 visitors. A NURSING HOME patient may be visited by the patient's
27 attorney or by representatives of the departments named in

1 section 20156, during other than established visiting hours.
2 Reasonable privacy shall be afforded for visitation of a NURSING
3 HOME patient who shares a room with another NURSING HOME
4 patient. Each NURSING HOME patient shall have reasonable access
5 to a telephone. A married nursing home patient or home for the
6 aged resident is entitled to meet privately with his or her
7 spouse in a room which assures privacy. If both spouses are
8 PATIENTS OR residents in the same ~~facility~~ NURSING HOME OR HOME
9 FOR THE AGED, they are entitled to share a room unless medically
10 contraindicated and documented by the attending physician in the
11 PATIENT'S OR RESIDENT'S medical record.

12 (c) A nursing home patient or home for the aged resident is
13 entitled to retain and use personal clothing and possessions as
14 space permits, unless to do so would infringe upon the rights of
15 other NURSING HOME patients or HOME FOR THE AGED residents, or
16 unless medically contraindicated as documented by the attending
17 physician in the PATIENT'S OR RESIDENT'S medical record. Each
18 nursing home patient or home for the aged resident shall be pro-
19 vided with reasonable space. At the request of a NURSING HOME
20 patient, a nursing home shall provide for the safekeeping of per-
21 sonal effects, funds, and other property of a patient in accord-
22 ance with section 21767, except that a nursing home ~~shall not~~
23 ~~be~~ IS NOT required to provide for the safekeeping of a property
24 which would impose an unreasonable burden on the nursing home.

25 (d) A nursing home patient or home for the aged resident is
26 entitled to the opportunity to participate in the planning of his
27 or her medical treatment. A nursing home patient shall be fully

1 informed by the attending physician of the patient's medical
 2 condition unless medically contraindicated as documented by a
 3 physician in the PATIENT'S medical record. Each nursing home
 4 patient shall be afforded the opportunity to discharge himself or
 5 herself from the nursing home.

6 (e) A home for the aged resident may be transferred or dis-
 7 charged only for medical reasons, for his or her welfare or that
 8 of other residents, or for nonpayment of his or her stay, except
 9 as provided by ~~title 18 or 19 of the social security act, 42~~
 10 ~~U.S.C. 1395 to 1396k~~ TITLE XVIII OR TITLE XIX. A nursing home
 11 patient may be transferred or discharged only as provided in sec-
 12 tions 21773 to 21777. A nursing home patient or home for the
 13 aged resident is entitled to be given reasonable advance notice
 14 to ensure orderly transfer or discharge. ~~Those actions~~ STEPS
 15 TAKEN TO ENSURE REASONABLE ADVANCE NOTICE shall be documented in
 16 the PATIENT'S OR RESIDENT'S medical record. AS USED IN THIS SUB-
 17 DIVISION AND SUBDIVISION (F):

18 (i) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY
 19 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,
 20 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j TO 1395t, 1395u TO
 21 1395w-2, 1395w-4 TO 1395zz, AND 1395bbb TO 1395ccc.

22 (ii) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,
 23 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396d, 1396f TO
 24 1396g, AND 1396i TO 1396s.

25 (f) A nursing home patient or home for the aged resident is
 26 entitled to be fully informed before or at the time of admission
 27 and during stay of services available in the ~~facility~~ NURSING

1 HOME OR HOME FOR THE AGED, and of the related charges including
 2 any charges for services not covered under ~~title 18 or 19 of the~~
 3 ~~social security act, 42 U.S.C. 1395 to 1396k~~ TITLE XVIII OR
 4 TITLE XIX, or not covered by the ~~facility's~~ NURSING HOME'S OR
 5 HOME FOR THE AGED'S basic per diem rate. The statement of serv-
 6 ices provided by the ~~facility~~ NURSING HOME OR HOME FOR THE AGED
 7 shall be in writing and shall include those required to be
 8 offered on an as-needed basis.

9 (g) A nursing home patient or home for the aged resident is
 10 entitled to manage his or her own financial affairs, or to have
 11 at least a quarterly accounting of personal financial transac-
 12 tions undertaken in his or her behalf by the ~~facility~~ NURSING
 13 HOME OR HOME FOR THE AGED during a period of time the patient or
 14 resident has delegated those responsibilities to the ~~facility~~
 15 NURSING HOME OR HOME FOR THE AGED. In addition, a NURSING HOME
 16 patient or HOME FOR THE AGED resident is entitled to receive each
 17 month from the ~~facility~~ NURSING HOME OR HOME FOR THE AGED an
 18 itemized statement setting forth the services paid for by or on
 19 behalf of the patient and the services rendered by the ~~facility~~
 20 NURSING HOME OR HOME FOR THE AGED. The admission of a patient to
 21 a nursing home does not confer on the nursing home or its owner,
 22 administrator, employees, or representatives the authority to
 23 manage, use, or dispose of ~~a~~ THE patient's property.

24 (h) A nursing home patient or a person authorized by ~~a~~ THE
 25 patient in writing may inspect and copy the patient's personal
 26 RECORDS UNDER THIS SUBDIVISION and medical records PURSUANT TO
 27 THE HEALTH CARE INFORMATION ACT. The PERSONAL records shall be

1 made available for inspection and copying by the nursing home
2 within a reasonable time, not exceeding 1 week, after the receipt
3 of a written request UNDER THIS SUBDIVISION.

4 (i) If a nursing home patient desires treatment by a
5 licensed member of the healing arts, the treatment shall be made
6 available unless it is medically contraindicated, and the medical
7 contraindication is justified in the patient's medical record by
8 the attending physician.

9 (j) A nursing home patient has the right to have his or her
10 parents, if a minor, or his or her spouse, next of kin, or
11 patient's representative, if an adult, stay at the facility 24
12 hours a day if the patient is considered terminally ill by the
13 physician responsible for the patient's care.

14 (k) Each nursing home patient shall be provided with meals
15 which meet the recommended dietary allowances for that patient's
16 age and sex and which may be modified according to special
17 dietary needs or ability to chew.

18 (l) Each nursing home patient has the right to receive rep-
19 resentatives of approved organizations as provided in section
20 21763.

21 (4) A nursing home, its owner, administrator, employee, or
22 representative shall not discharge, harass, or retaliate or dis-
23 criminate against a patient because the patient has exercised a
24 right protected under this section.

25 (5) In the case of a nursing home patient, the rights enu-
26 merated in subsection (2)(c), (g), and (k) and subsection (3)(d),

1 (g), and (h) may be exercised by the patient's representative as
2 defined in section 21703.

3 (6) A nursing home patient or home for the aged resident is
4 entitled to be fully informed, as evidenced by the patient's or
5 resident's written acknowledgment, before or at the time of
6 admission and during stay, of the policy required by this
7 section. The policy shall provide that if a NURSING HOME patient
8 or HOME FOR THE AGED resident is adjudicated incompetent and not
9 restored to legal capacity, the rights and responsibilities set
10 forth in this section shall be exercised by a person designated
11 by the NURSING HOME patient or HOME FOR THE AGED resident. The
12 ~~facility or agency~~ NURSING HOME OR HOME FOR THE AGED shall pro-
13 vide proper forms for the NURSING HOME patient or HOME FOR THE
14 AGED resident to provide for the designation of this person at
15 the time of admission.

16 (7) This section ~~shall not be construed to~~ DOES NOT pro-
17 hibit a health facility or agency from establishing and recogniz-
18 ing additional patients' OR RESIDENTS' rights.

19 Sec. 21025. (1) The insurance bureau may visit or examine
20 the business and financial operations of a health maintenance
21 organization as follows:

22 (a) At periodic intervals during the first licensure
23 period.

24 (b) Annually, during the second licensure period.

25 (c) Once each licensure period, during the third and subse-
26 quent licensure periods. This subdivision shall not apply after
27 December 31, 1989.

1 (d) For reasonable cause as determined by the insurance
2 bureau.

3 (e) At the request of a majority of the members of the gov-
4 erning body of a health maintenance organization.

5 (2) The department may visit or examine the health care
6 service operations of a health maintenance organization and con-
7 sult with enrollees to the extent necessary to carry out the
8 intent of this part as follows:

9 (a) At periodic intervals during the first licensure
10 period.

11 (b) Annually, during the second licensure period.

12 (c) Once each licensure period, during the third and subse-
13 quent licensure periods. This subdivision shall not apply after
14 December 31, 1989.

15 (d) For reasonable cause as determined by the director.

16 (e) At the request of a majority of the members of the gov-
17 erning body of a health maintenance organization.

18 (3) Notwithstanding subsections (1)(c) and (2)(c), until
19 January 1, 1985, the department or insurance bureau each may
20 visit or examine a health maintenance organization annually
21 during the third and subsequent licensure periods.

22 (4) ~~The~~ SUBJECT TO THE HEALTH CARE INFORMATION ACT, THE
23 department ~~or~~ AND the insurance bureau each shall have access
24 to the books, papers, and documents of the organization relating
25 to the delivery of health services in a manner ~~which~~ THAT pre-
26 serves the confidentiality of the health records of individual
27 enrollees. The department ~~or~~ AND the insurance bureau each

1 shall have access to the corporate books, papers, and documents
2 of the organization relating to the business and finances of the
3 organization.

4 (5) The department or the insurance bureau may:

5 (a) Summon and qualify witnesses under oath, and examine the
6 officers, agents, employees, providers, or other persons having
7 knowledge of the operations, affairs, transactions, and condi-
8 tions of a health maintenance organization. The officers,
9 agents, employees, providers, or other persons may be required to
10 produce any books or papers considered to be relevant to the
11 evaluation or inspection of a health maintenance organization's
12 affairs, and shall fully cooperate and aid the commissioner or
13 the director in an examination or inspection of a health mainte-
14 nance organization.

15 (b) Require the submission of information regarding a pro-
16 posed contract between a health maintenance organization and an
17 affiliated provider as the department or insurance bureau consid-
18 ers necessary to assure that the contract is in compliance with
19 this part.

20 (c) Jointly promulgate rules, except that, unless specifi-
21 cally authorized by this part, the department and the insurance
22 bureau shall not promulgate rules to require a health maintenance
23 organization to assume responsibility for long-term care for
24 individuals whose custodial maintenance is assigned by statute to
25 this state or a political subdivision of this state.

1 (6) The department shall promptly send to the insurance
2 bureau copies of submissions filed by a health maintenance
3 organization.

4 Sec. 21743. (1) In addition to public records subject to
5 disclosure under section 20175, the following information is
6 subject to disclosure from the department of public health or the
7 department of social services:

8 (a) Ownership of nursing homes, ownership of buildings occu-
9 pied by nursing homes, and the names and addresses of suppliers
10 and the ownership of suppliers of goods and services to nursing
11 homes required to be reported under section 20142.

12 (b) Records of license and certification inspections, sur-
13 veys, and evaluations of nursing homes, other reports of inspec-
14 tions, surveys, and evaluations of patient care, and reports con-
15 cerning a nursing home prepared pursuant to ~~titles 18 and 19 of~~
16 ~~the social security act, 42 U.S.C. 1395 to 1396k~~ TITLE VIII OR
17 TITLE XIX. AS USED IN THIS SUBDIVISION:

18 (i) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY
19 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,
20 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j TO 1395t, 1395u TO
21 1395w-2, 1395w-4 TO 1395zz, AND 1395bbb TO 1395ccc.

22 (ii) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,
23 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396d, 1396f TO
24 1396g, AND 1396i TO 1396s.

25 (c) Cost and reimbursement reports submitted by a nursing
26 home, reports of audits of nursing homes, and other public

1 records concerning costs incurred by, revenues received by, and
2 reimbursement of nursing homes.

3 (d) Complaints filed against a nursing home and complaint
4 investigation reports. A complaint or complaint investigation
5 report shall not be disclosed to a person other than the com-
6 plainant or complainant's representative before it is disclosed
7 to a nursing home under section 21799a and a complainant's or
8 patient's name shall not be disclosed except as provided in sec-
9 tion 21799a.

10 (2) ~~The department of public health, the department of~~
11 ~~social services and the nursing home shall respect the confiden-~~
12 ~~tiality of a patient's clinical record as provided in section~~
13 ~~20175 and shall not divulge or disclose the contents of a record~~
14 ~~in a manner which identifies a patient, except upon a patient's~~
15 ~~death to a relative or guardian, or under judicial proceedings.~~
16 ~~This subsection shall not be construed to limit the right of a~~
17 ~~patient or a patient's representative to inspect or copy the~~
18 ~~patient's clinical record.~~ A NURSING HOME PATIENT'S MEDICAL
19 RECORD IS SUBJECT TO THE HEALTH CARE INFORMATION ACT.

20 (3) Confidential ~~medical,~~ social, personal, or financial
21 information identifying a patient shall not be available for
22 public inspection in a manner which identifies a patient.

23 Sec. 22210. (1) A hospital that applies to the department
24 for a certificate of need and meets all of the following criteria
25 shall be granted a certificate of need for a short-term nursing
26 care program with up to 10 licensed hospital beds:

1 (a) Is eligible to apply for certification as a provider of
2 swing-bed services under section 1883 of title XVIII of the
3 social security act, 42 U.S.C. 1395tt.

4 (b) Subject to subsection (2), has fewer than 100 licensed
5 beds not counting beds excluded under section 1883 of title XVIII
6 of the social security act AND THE REGULATIONS PROMULGATED UNDER
7 SECTION 1883.

8 (c) Does not have uncorrected licensing, certification, or
9 safety deficiencies for which the department or the state fire
10 marshal, or both, has not accepted a plan of correction.

11 (d) Provides evidence satisfactory to the department that
12 the hospital has had difficulty in placing patients in skilled
13 nursing home beds during the 12 months immediately preceding the
14 date of the application.

15 (2) After October 1, 1990, the criteria set forth in
16 subsection (1)(b) may be modified by the commission, using the
17 procedure set forth in section 22215(3). The department shall
18 not charge a fee for processing a certificate of need application
19 to initiate a short-term nursing care program.

20 (3) A hospital that is granted a certificate of need for a
21 short-term nursing care program under subsection (1) shall comply
22 with all of the following:

23 (a) Not charge for or otherwise attempt to recover the cost
24 of a length of stay for a patient in the short-term nursing care
25 program that exceeds the length of time allowed for post-hospital
26 extended care under title XVIII of the social security act,
27 chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,

1 1395c to 1395i, 1395i-2 to 1395i-4, 1395j TO 1395t, 1395u to
2 1395w-2, 1395w-4 to ~~1395dd, 1395ff to 1395yy~~ 1395zz, and
3 1395bbb to 1395ccc.

4 (b) Admit patients to the short-term nursing care program
5 only pursuant to an admissions contract approved by the
6 department.

7 (c) Not discharge or transfer a patient from a licensed hos-
8 pital bed, other than a hospital long-term care unit bed, and
9 admit that patient to the short-term nursing care program unless
10 the discharge or transfer and admission is determined medically
11 appropriate by the attending physician.

12 (d) Permit access to a representative of an organization
13 approved under section 21764 to patients admitted to the
14 short-term nursing care program, for all of the purposes
15 described in section 21763.

16 (e) Subject to subsection (8), not allow the number of
17 patient days for the short-term nursing care program to exceed
18 the equivalent of 1,825 patient days for a single state fiscal
19 year.

20 (f) Transfer a patient in the short-term nursing care pro-
21 gram to an appropriately certified nursing home bed, county medi-
22 cal care facility bed, or hospital long-term care unit bed
23 located within a 50-mile radius of the patient's residence within
24 5 business days after the hospital has been notified, either
25 orally or in writing, that a bed has become available.

26 (g) Not charge or collect from a patient admitted to the
27 short-term nursing care program, for services rendered as part of

1 the short-term nursing care program, an amount in excess of the
2 reasonable charge for the services as determined by the United
3 States secretary of health and human services under title XVIII
4 of the social security act.

5 (h) Assist a patient who has been denied coverage for serv-
6 ices received in a short-term nursing care program under title
7 XVIII of the social security act to file an appeal with the medi-
8 care recovery project operated by the office of services to the
9 aging.

10 (i) Operate the short-term nursing care program in accord-
11 ance with this section and the requirements of the swing bed pro-
12 visions of section 1883 of title XVIII of the social security
13 act, 42 U.S.C. 1395tt.

14 (j) Provide data to the department considered necessary by
15 the department to evaluate the short-term nursing care program.
16 The data shall include, but is not limited to, all of the
17 following:

18 (i) The total number of patients admitted to the hospital's
19 short-term nursing care program during the period specified by
20 the department.

21 (ii) The total number of short-term nursing care patient
22 days for the period specified by the department.

23 (iii) Information identifying the type of care to which
24 patients in the short-term care nursing program are released.

25 (k) As part of the hospital's policy describing the rights
26 and responsibilities of patients admitted to the hospital, as
27 required under section 20201, incorporate all of the following

1 additional rights and responsibilities for patients in the
2 short-term nursing care program:

3 (i) A copy of the hospital's policy shall be provided to
4 each short-term nursing care patient upon admission, and the
5 staff of the hospital shall be trained and involved in the imple-
6 mentation of the policy.

7 (ii) Each short-term nursing care patient may associate and
8 communicate privately with persons of his or her choice.
9 Reasonable, regular visiting hours, which shall take into consid-
10 eration the special circumstances of each visitor, shall be
11 established for short-term nursing care patients to receive
12 visitors. A short-term nursing care patient may be visited by
13 the patient's attorney or by representatives of the departments
14 named in section 20156 during other than established visiting
15 hours. Reasonable privacy shall be afforded for visitation of a
16 short-term nursing care patient who shares a room with another
17 short-term nursing care patient. Each short-term nursing care
18 patient shall have reasonable access to a telephone.

19 (iii) A short-term nursing care patient is entitled to
20 retain and use personal clothing and possessions as space per-
21 mits, unless medically contraindicated, as documented by the
22 attending physician in the PATIENT'S medical record.

23 (iv) A short-term nursing care patient is entitled to the
24 opportunity to participate in the planning of his or her medical
25 treatment. A short-term nursing care patient shall be fully
26 informed by the attending physician of the short-term nursing
27 care patient's medical condition, unless medically

1 contraindicated, as documented by a physician in the medical
2 record. Each short-term nursing care patient shall be afforded
3 the opportunity to discharge himself or herself from the
4 short-term nursing care program.

5 (v) A short-term nursing care patient is entitled to be
6 fully informed either before or at the time of admission, and
7 during their stay, of services available in the hospital and of
8 the related charges for those services. The statement of serv-
9 ices provided by the hospital shall be in writing and shall
10 include those services required to be offered on an as needed
11 basis.

12 (vi) A patient in a short-term nursing care program or a
13 person authorized in writing by the patient may, upon submission
14 to the hospital of a written request, inspect and copy the
15 patient's personal ~~or medical~~ records. The hospital shall make
16 the PERSONAL records available for inspection and copying within
17 a reasonable time, not exceeding 7 days, after the receipt of the
18 written request. THE PATIENT'S MEDICAL RECORDS ARE SUBJECT TO
19 THE HEALTH CARE INFORMATION ACT.

20 (vii) A short-term nursing care patient has the right to
21 have his or her parents, if the short-term nursing care patient
22 is a minor, or his or her spouse, next of kin, or patient's rep-
23 resentative, if the short-term nursing care patient is an adult,
24 stay at the facility 24 hours a day if the short-term nursing
25 care patient is considered terminally ill by the physician
26 responsible for the short-term nursing care patient's care.

1 (viii) Each short-term nursing care patient shall be
2 provided with meals that meet the recommended dietary allowances
3 for that patient's age and sex and that may be modified according
4 to special dietary needs or ability to chew.

5 (ix) Each short-term nursing care patient has the right to
6 receive a representative of an organization approved under
7 section 21764, for all of the purposes described in section
8 21763.

9 (l) Achieve and maintain medicare certification under title
10 XVIII of the social security act.

11 (4) A hospital or the owner, administrator, an employee, or
12 a representative of the hospital shall not discharge, harass, or
13 retaliate or discriminate against a short-term nursing care
14 patient because the short-term nursing care patient has exercised
15 a right described in subsection (3)(k).

16 (5) In the case of a short-term nursing care patient, the
17 rights described in subsection (3)(k)(iv) may be exercised by the
18 patient's representative, as defined in section 21703(2).

19 (6) A short-term nursing care patient shall be fully
20 informed, as evidenced by the short-term nursing care patient's
21 written acknowledgment, before or at the time of admission and
22 during stay, of the rights described in subsection (3)(k). The
23 written acknowledgment shall provide that if a short-term nursing
24 care patient is adjudicated incompetent and not restored to legal
25 capacity, the rights and responsibilities set forth in subsection
26 (3)(k) shall be exercised by a person designated by the
27 short-term nursing care patient. The hospital shall provide

1 proper forms for the short-term nursing care patient to provide
2 for the designation of this person at the time of admission.

3 (7) Subsection (3)(k) does not prohibit a hospital from
4 establishing and recognizing additional rights for short-term
5 nursing care patients.

6 (8) Upon application, the department may grant a variation
7 from the maximum number of patient days established under subsec-
8 tion (3)(e), to an applicant hospital that demonstrates to the
9 satisfaction of the department that there is an immediate need
10 for skilled nursing beds within a 100-mile radius of the
11 hospital. A variation granted under this subsection ~~shall be~~
12 IS valid for not more than 1 year after the date variation is
13 granted. The department shall promulgate rules to implement this
14 subsection including, at a minimum, a definition of immediate
15 need and the procedure for applying for a variation.

16 (9) A hospital that violates subsection (3) is subject to
17 the penalty provisions of section 20165.

18 (10) A person shall not initiate a short-term nursing care
19 program without first obtaining a certificate of need under this
20 section.

21 (11) By October 1, 1990, the department shall collect data
22 from hospitals operating short-term nursing care programs and
23 report to the legislature on the status of short-term nursing
24 care programs in this state. The report shall include a recom-
25 mendation as to whether or not short-term nursing care programs
26 should continue.

1 (12) This section is repealed effective October 1, 1993.
2 Section 2. This amendatory act shall not take effect unless
3 Senate Bill No. ____ or House Bill No. 5217 (request
4 no.(00759'91) of the 86th Legislature is enacted into law.