

# SENATE BILL No. 515

September 25, 1991, Introduced by Senator PRIDNIA and referred to the Committee on Health Policy.

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. 474 of the Public Acts of 1982, 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. 474 of the Public Acts of 1982,  
3 being section 333.20155 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 20155. (1) Except as provided ~~for clinical laborato-~~  
6 ~~ries in section 20511~~ IN THIS SECTION, 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 ~~—~~  
9 ~~other than a licensee under part 215,~~ for the purposes of

1 survey, evaluation, and consultation. Except for ~~facilities~~ A  
2 HEALTH FACILITY OR AGENCY described in section ~~20106(1)(f)~~ and  
3 ~~(h)~~ 20106(1)(C) OR (H), the department shall determine whether  
4 the visits shall be announced or unannounced, except that a com-  
5 plaint investigation shall not be announced and there shall be at  
6 least 1 unannounced visit other than a complaint investigation  
7 annually to ~~the facilities~~ A HEALTH FACILITY OR AGENCY  
8 described in section ~~20106(1)(e) and (d)~~ 20106(1)(C) OR (H).  
9 ~~The department shall make biennial visits to hospitals for~~  
10 ~~survey, and for evaluation for the purpose of licensure.~~  
11 ~~However, this requirement shall not be construed to prohibit the~~  
12 ~~department from conducting investigations or inspections pursuant~~  
13 ~~to section 20156, or from conducting surveys of hospitals for the~~  
14 ~~purpose of complaint investigation or federal certification, nor~~  
15 ~~to preclude the state fire marshal from conducting annual surveys~~  
16 ~~of hospitals.~~

17 (2) THE DEPARTMENT SHALL MAKE AT LEAST BIENNIAL VISITS TO  
18 EACH LICENSED CLINICAL LABORATORY FOR THE PURPOSES OF SURVEY,  
19 EVALUATION, AND CONSULTATION.

20 (3) THE DEPARTMENT SHALL MAKE BIENNIAL VISITS TO EACH HOSPI-  
21 TAL FOR SURVEY AND EVALUATION FOR THE PURPOSE OF LICENSURE.  
22 SUBJECT TO SUBSECTION (6), THE DEPARTMENT MAY WAIVE THE BIENNIAL  
23 VISITS REQUIRED BY THIS SUBSECTION IF A HOSPITAL, AS PART OF A  
24 TIMELY APPLICATION FOR LICENSE RENEWAL, REQUESTS A WAIVER AND  
25 SUBMITS BOTH OF THE FOLLOWING AND IF ALL OF THE REQUIREMENTS OF  
26 SUBSECTION (5) ARE MET:

1 (A) EVIDENCE THAT IT IS CURRENTLY FULLY ACCREDITED BY A BODY  
2 WITH EXPERTISE IN HOSPITAL ACCREDITATION WHOSE HOSPITAL  
3 ACCREDITATIONS ARE ACCEPTED BY THE UNITED STATES DEPARTMENT OF  
4 HEALTH AND HUMAN SERVICES FOR PURPOSES OF SECTION 1865 OF TITLE  
5 XVIII OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620,  
6 42 U.S.C. 1395bb.

7 (B) A COPY OF THE MOST RECENT ACCREDITATION REPORT FOR THE  
8 HOSPITAL ISSUED BY A BODY DESCRIBED IN SUBDIVISION (A), AND THE  
9 HOSPITAL'S RESPONSES TO THE ACCREDITATION REPORT.

10 (4) ACCREDITATION INFORMATION PROVIDED TO THE DEPARTMENT  
11 UNDER SUBSECTION (3) IS CONFIDENTIAL, IS NOT A PUBLIC RECORD, AND  
12 IS NOT SUBJECT TO COURT SUBPOENA. THE DEPARTMENT SHALL USE THE  
13 ACCREDITATION INFORMATION ONLY AS PROVIDED IN THIS SECTION AND  
14 SHALL RETURN THE ACCREDITATION INFORMATION TO THE HOSPITAL WITHIN  
15 A REASONABLE TIME AFTER A DECISION ON THE WAIVER REQUEST IS  
16 MADE.

17 (5) THE DEPARTMENT SHALL GRANT A WAIVER UNDER SUBSECTION (3)  
18 IF THE ACCREDITATION REPORT SUBMITTED UNDER SUBSECTION (3)(B) IS  
19 LESS THAN 2 YEARS OLD AND THERE IS NO INDICATION OF SUBSTANTIVE  
20 DEVIATIONS FROM LICENSURE STANDARDS OR OF DEFICIENCIES THAT REP-  
21 RESENT A THREAT TO PUBLIC SAFETY OR PATIENT CARE IN THE REPORT,  
22 IN COMPLAINTS INVOLVING THE HOSPITAL, OR IN ANY OTHER INFORMATION  
23 AVAILABLE TO THE DEPARTMENT. IF THE ACCREDITATION REPORT IS 2 OR  
24 MORE YEARS OLD, THE DEPARTMENT MAY DO 1 OF THE FOLLOWING:

25 (A) GRANT AN EXTENSION OF THE HOSPITAL'S CURRENT LICENSE  
26 UNTIL THE NEXT ACCREDITATION SURVEY IS COMPLETED BY THE BODY  
27 DESCRIBED IN SUBSECTION (3)(A).

1 (B) GRANT A WAIVER UNDER SUBSECTION (3) BASED ON THE  
2 ACCREDITATION REPORT THAT IS 2 OR MORE YEARS OLD, ON CONDITION  
3 THAT THE HOSPITAL PROMPTLY SUBMIT THE NEXT ACCREDITATION REPORT  
4 TO THE DEPARTMENT.

5 (C) DENY THE WAIVER REQUEST AND CONDUCT THE VISITS REQUIRED  
6 UNDER SUBSECTION (3).

7 (6) THE DEPARTMENT SHALL NOT GRANT MORE THAN 2 CONSECUTIVE  
8 WAIVERS UNDER SUBSECTION (3). THIS SECTION DOES NOT PROHIBIT THE  
9 DEPARTMENT FROM CONDUCTING INVESTIGATIONS OR INSPECTIONS PURSUANT  
10 TO SECTION 20156 OR FROM CONDUCTING SURVEYS OF HEALTH FACILITIES  
11 OR AGENCIES FOR THE PURPOSE OF COMPLAINT INVESTIGATIONS OR FED-  
12 ERAL CERTIFICATION. THIS SECTION DOES NOT PROHIBIT THE STATE  
13 FIRE MARSHAL FROM CONDUCTING ANNUAL SURVEYS OF HOSPITALS.

14 (7) AT THE REQUEST OF A HEALTH FACILITY OR AGENCY, THE  
15 DEPARTMENT MAY CONDUCT A CONSULTATION ENGINEERING SURVEY OF A  
16 HEALTH FACILITY AND PROVIDE PROFESSIONAL ADVICE AND CONSULTATION  
17 REGARDING HEALTH FACILITY CONSTRUCTION AND DESIGN. A HEALTH  
18 FACILITY OR AGENCY MAY REQUEST A VOLUNTARY CONSULTATION SURVEY  
19 UNDER THIS SUBSECTION AT ANY TIME BETWEEN LICENSURE SURVEYS. THE  
20 FEES FOR A CONSULTATION ENGINEERING SURVEY ARE THE SAME AS THE  
21 FEES ESTABLISHED FOR WAIVERS UNDER SECTION 20161(10).

22 (8) ~~-(2)-~~ Investigations or inspections, other than inspec-  
23 tions of financial records, of ~~-facilities-~~ A HEALTH FACILITY OR  
24 AGENCY described in section ~~-20106(1)(f) and (h)-~~ 20106(1)(C) OR  
25 (H) shall be conducted without prior notice to the HEALTH facil-  
26 ity OR AGENCY. An employee of a state agency charged with  
27 inspecting the HEALTH facility OR AGENCY or an employee of a

1 local health department who directly or indirectly gives prior  
2 notice regarding an inspection, other than an inspection of the  
3 financial records, to the HEALTH facility OR AGENCY or to an  
4 employee ~~thereof~~ OF THE HEALTH FACILITY OR AGENCY, is guilty of  
5 a misdemeanor. Consultation visits ~~—~~ THAT ARE not for the pur-  
6 pose of annual or follow-up inspection or survey ~~—~~ may be  
7 announced.

8 (9) ~~—(3)—~~ The department shall maintain a record indicating  
9 whether visits are announced or unannounced. Information gath-  
10 ered at all visits, announced or unannounced, shall be taken into  
11 account in licensure decisions.

12 (10) ~~—(4)—~~ The department shall require periodic reports and  
13 ~~shall have~~ HAS access to books, records, and other documents  
14 maintained by a health facility or agency to the extent necessary  
15 to carry out the purpose of this article and the rules promul-  
16 gated under this article. The department shall respect the con-  
17 fidentiality of a patient's clinical record and shall not divulge  
18 or disclose the contents of the records in a manner ~~which~~ THAT  
19 identifies an individual except under court order. The depart-  
20 ment ~~has the right to~~ MAY copy health facility or agency  
21 records as required to document findings.

22 (11) ~~—(5)—~~ The department may delegate survey, evaluation,  
23 or consultation functions to another state agency or to a local  
24 health department qualified to perform ~~them~~ THOSE FUNCTIONS.  
25 The delegation shall be by cost reimbursement contract between  
26 the department and the state agency or local health department.  
27 Survey, evaluation, or consultation functions shall not be

1 delegated to nongovernmental agencies, except as provided in this  
2 section. The department may accept voluntary inspections ~~of~~  
3 PERFORMED BY an accrediting body with expertise in clinical labo-  
4 ratory accreditation ~~to perform inspections and surveys~~ under  
5 part 205 ~~provided that~~ IF the accrediting body utilizes forms  
6 acceptable to the department, applies the same licensing stan-  
7 dards as applied to other clinical laboratories and provides the  
8 same information and data usually filed by the department's own  
9 employees when engaged in similar inspections or surveys. ~~This~~  
10 THE voluntary inspection DESCRIBED IN THIS SUBSECTION shall be  
11 agreed upon by both the licensee and the department.

12 (12) ~~(6)~~ If, upon investigation, the department or a state  
13 agency determines that ~~a person~~ AN INDIVIDUAL licensed to prac-  
14 tice a profession in this state has violated the applicable  
15 licensure statute or the rules promulgated under that statute,  
16 the department, state agency, or local health department shall  
17 forward the evidence it has to the appropriate licensing agency.