



SENATE BILL No. 1141

May 4, 1994, Introduced by Senator KELLY and referred to
the Committee on Health Policy and Senior Citizens

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 sec-
tion 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 Except for a health
9 facility or agency described in section 20106(1)(c), (f), or (h),

1 the department shall determine whether the visits shall be
2 announced or unannounced, except that a complaint investigation
3 shall not be announced and there shall be at least 1 unannounced
4 visit other than a complaint investigation annually to a health
5 facility or agency described in section 20106(1)(c) or (h)

6 (2) The department shall make at least a biennial visit to
7 each licensed clinical laboratory and each nursing home for the
8 purposes of survey, evaluation, and consultation If a nursing
9 home is only partially certified under title XVIII or title XIX,
10 the department shall include all licensed parts of the nursing
11 home in a certification survey conducted by the department

12 (3) The department shall make a biennial visit to each hos-
13 pital for survey and evaluation for the purpose of licensure
14 Subject to subsection (6), the department may waive the biennial
15 visit required by this subsection if a hospital as part of a
16 timely application for license renewal, requests a waiver and
17 submits both of the following and if all of the requirements of
18 subsection (5) are met

19 (a) Evidence that it is currently fully accredited by a body
20 with expertise in hospital accreditation whose hospital accredit-
21 ations are accepted by the United States department of health and
22 human services for purposes of section 1865 of PART C OF title
23 XVIII of the social security act, chapter 531, 49 Stat 620,
24 42 U S C 1395bb

25 (b) A copy of the most recent accreditation report for the
26 hospital issued by a body described in subdivision (a), and the
27 hospital's responses to the accreditation report

1 (4) ~~Except as provided in subsection (8), accreditation~~
2 ACCREDITATION information provided to the department under
3 subsection (3) is ~~confidential, is not~~ a public record ~~—, and~~
4 ~~is not subject to court subpoena—~~ The department shall use the
5 accreditation information only as provided in this section ~~—and~~
6 ~~shall return the accreditation information to the hospital within~~
7 ~~a reasonable time after a decision on the waiver request is~~
8 ~~made—~~

9 (5) The department shall grant a waiver under subsection (3)
10 if the accreditation report submitted under subsection (3)(b) is
11 less than 2 years old and there is no indication of substantial
12 noncompliance with licensure standards or of deficiencies that
13 represent a threat to public safety or patient care in the
14 report, in complaints involving the hospital, or in any other
15 information available to the department If the accreditation
16 report is 2 or more years old, the department may do 1 of the
17 following

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

21 (b) Grant a waiver under subsection (3) based on the accred-
22 itation report that is 2 or more years old on condition that the
23 hospital promptly submit the next accreditation report to the
24 department

25 (c) Deny the waiver request and conduct the ~~visits~~ VISIT
26 required under subsection (3)

1 (6) The department shall not grant more than 2 consecutive
2 waivers under subsection (3) This section does not prohibit the
3 department from citing a violation of this part during a survey,
4 conducting investigations or inspections pursuant to
5 section 20156, or conducting surveys of health facilities or
6 agencies for the purpose of complaint investigations or federal
7 certification This section does not prohibit the state fire
8 marshal from conducting annual surveys of hospitals, nursing
9 homes, and county medical care facilities

10 (7) At the request of a health facility or agency, the
11 department may conduct a consultation engineering survey of a
12 health facility and provide professional advice and consultation
13 regarding health facility construction and design A health
14 facility or agency may request a voluntary consultation survey
15 under this subsection at any time between licensure surveys The
16 fees for a consultation engineering survey are the same as the
17 fees established for waivers under section 20161(10)

18 (8) If the department determines that substantial noncompli-
19 ance with licensure standards exists or that deficiencies that
20 represent a threat to public safety or patient care exist based
21 on a review of an accreditation report submitted pursuant to
22 subsection (3)(b), the department shall prepare a written summary
23 of the substantial noncompliance or deficiencies and the
24 hospital's response to the department's determination The
25 department's written summary and the hospital's response are
26 public ~~documents~~ RECORDS

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

13 (10) The department shall maintain a record indicating
14 whether visits are announced or unannounced. Information gath-
15 ered at all visits, announced or unannounced, shall be taken into
16 account in licensure decisions.

17 (11) The department shall require periodic reports and a
18 health facility or agency shall give the department access to
19 books, records, and other documents maintained by a health facil-
20 ity or agency to the extent necessary to carry out the purpose of
21 this article and the rules promulgated under this article. The
22 department shall respect the confidentiality of a patient's clin-
23 ical record and shall not divulge or disclose the contents of the
24 records in a manner that identifies an individual except under
25 court order. The department may copy health facility or agency
26 records as required to document findings.

1 (12) The department may delegate survey, evaluation or
 2 consultation functions to another state agency or to a local
 3 health department qualified to perform those functions The del-
 4 egation shall be by cost reimbursement contract between the
 5 department and the state agency or local health department
 6 Survey, evaluation, or consultation functions shall not be dele-
 7 gated to nongovernmental agencies, except as provided in this
 8 section The department may accept voluntary inspections per-
 9 formed by an accrediting body with expertise in clinical labora-
 10 tory accreditation under part 205 if the accrediting body uti-
 11 lizes forms acceptable to the department, applies the same
 12 licensing standards as applied to other clinical laboratories and
 13 provides the same information and data usually filed by the
 14 department's own employees when engaged in similar inspections or
 15 surveys The voluntary inspection described in this subsection
 16 shall be agreed upon by both the licensee and the department

17 (13) If upon investigation, the department or a state
 18 agency determines that an individual licensed to practice a pro-
 19 fession in this state has violated the applicable licensure stat-
 20 ute or the rules promulgated under that statute the department,
 21 state agency, or local health department shall forward the evi-
 22 dence it has to the appropriate licensing agency

23 (14) As used in this section

24 (a) "Title XVIII" means title XVIII of the social security
 25 act, chapter 531, 49 Stat 620, 42 U S C 1395 to 1395b, 1395b-2,
 26 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to
 27 1395w-2, AND 1395w-4 ~~to 1395zz, and 1395bbb~~ to 1395ccc

1 (b) "Title XIX" means title XIX of the social security act,
2 chapter 531, 49 Stat 620 42 U S C 1396 to ~~1396f~~ 1396g and
3 1396i to ~~1396u~~ 1396v