



# HOUSE BILL No. 6053

September 11, 1996, Introduced by Reps. Green, Kukuk, McBryde, Goschka, Jamian, Rhead, Hammerstrom, Horton, Geiger, LeTarte, Weeks, Gernaat and Galloway 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. 267 of the Public Acts of 1996, 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. 267 of the Public Acts of 1996,  
3 being section 333.20155 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 20155. (1) Except as OTHERWISE provided in this sec-  
6 tion, the department shall make annual and other visits to each  
7 health facility or agency licensed under this article for the  
8 purposes of survey, evaluation, and consultation. Except for a  
9 health facility or agency described in section 20106(1)(c), (f),

1 (h), or (j), the department shall determine whether the visits  
2 shall be announced or unannounced, except that a complaint inves-  
3 tigation shall not be announced and there shall be at least 1  
4 unannounced visit other than a complaint investigation annually  
5 to a health facility or agency described in section 20106(1)(c),  
6 (h), or (j). FOR PURPOSES OF A SURVEY, EVALUATION, AND CONSULTA-  
7 TION VISIT, THE DEPARTMENT SHALL INCLUDE ON THE SURVEY, EVALU-  
8 ATION, AND CONSULTATION TEAM AT LEAST 1 MEMBER WHO HAS AT LEAST 1  
9 YEAR'S EXPERIENCE AS AN EMPLOYEE OF A NURSING HOME LICENSED IN  
10 THIS STATE.

11 (2) The department shall make at least a biennial visit to  
12 each licensed clinical laboratory, each nursing home, and each  
13 hospice residence for the purposes of survey, evaluation, and  
14 consultation. If a nursing home is only partially certified  
15 under title XVIII or title XIX, the department shall include all  
16 licensed parts of the nursing home in a certification survey con-  
17 ducted by the department.

18 (3) The department shall make a biennial visit to each hos-  
19 pital for survey and evaluation for the purpose of licensure.  
20 Subject to subsection (6), the department may waive the biennial  
21 visit required by this subsection if a hospital, as part of a  
22 timely application for license renewal, requests a waiver and  
23 submits both of the following and if all of the requirements of  
24 subsection (5) are met:

25 (a) Evidence that it is currently fully accredited by a body  
26 with expertise in hospital accreditation whose hospital  
27 accreditations are accepted by the United States department of

1 health and human services for purposes of section 1865 of PART C  
2 OF title XVIII of the social security act, ~~chapter 531,~~  
3 ~~49 Stat. 620,~~ 42 U.S.C. 1395bb.

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

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

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

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

26 (b) Grant a waiver under subsection (3) based on the  
27 accreditation report that is 2 or more years old, on condition

1 that the hospital promptly submit the next accreditation report  
2 to the department.

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

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

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) If the department determines that substantial noncompli-  
23 ance with licensure standards exists or that deficiencies that  
24 represent a threat to public safety or patient care exist based  
25 on a review of an accreditation report submitted pursuant to  
26 subsection (3)(b), the department shall prepare a written summary  
27 of the substantial noncompliance or deficiencies and the

1 hospital's response to the department's determination. The  
2 department's written summary and the hospital's response are  
3 public documents.

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

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

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

1 court order. The department may copy health facility or agency  
2 records as required to document findings.

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

22 (13) If, upon investigation, the department or a state  
23 agency determines that an individual licensed to practice a pro-  
24 fession in this state has violated the applicable licensure stat-  
25 ute or the rules promulgated under that statute, the department,  
26 state agency, or local health department shall forward the  
27 evidence it has to the appropriate licensing agency.

1 (14) As used in this section:

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

6 (b) "Title XIX" means title XIX of the social security act,  
7 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f AND 1396g-1  
8 1396v.