

# HOUSE BILL No. 4853

May 29, 1997, Introduced by Reps. Rison, Freeman, Bogardus, Wallace, Brewer, Schauer, Cherry, Kelly, Scott, DeHart, Curtis, Wetters, Hale, Thomas, Brown, Wojno, Callahan, Price, Parks, Mans, Prusi, Godchaux, Quarles, Stallworth, LaForge, Vaughn, Mathieu, Ciaramitaro, Varga, Baird, Willard, Harder, Schermesser, Dobronski, Goschka, Rocca, Emerson, Galloway, Murphy, Brater, Frank, Griffin and Gagliardi and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 20155 (MCL 333.20155), as amended by 1996 PA  
267.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 20155. (1) Except as OTHERWISE provided in this sec-  
2 tion, the department shall make annual and other visits to each  
3 health facility or agency licensed under this article for the  
4 purposes of survey, evaluation, and consultation. A VISIT MADE  
5 PURSUANT TO A COMPLAINT INVESTIGATION SHALL BE UNANNOUNCED.  
6 Except for a health facility or agency described in section  
7 20106(1)(c), (f), (h), or (j), the department shall determine  
8 whether ~~the~~ visits ~~shall be~~ THAT ARE NOT MADE PURSUANT TO A  
9 COMPLAINT INVESTIGATION ARE announced or unannounced. ~~, except~~  
10 ~~that a complaint investigation shall not be announced and there~~

1 IN ADDITION TO VISITS MADE PURSUANT TO A COMPLAINT INVESTIGATION,  
2 THE DEPARTMENT shall ~~be~~ ANNUALLY MAKE at least 1 unannounced  
3 visit ~~other than a complaint investigation annually~~ to a health  
4 facility or agency described in section 20106(1)(c) ~~, (h),~~ or  
5 (j).

6 (2) The department shall ~~make~~ DO BOTH OF THE FOLLOWING:

7 (A) MAKE at least a biennial visit to each licensed clinical  
8 laboratory ~~, each nursing home,~~ and each hospice residence for  
9 the purposes of survey, evaluation, and consultation. ~~If a~~  
10 ~~nursing home is only partially certified under title XVIII or~~  
11 ~~title XIX, the department shall include all licensed parts of the~~  
12 ~~nursing home in a certification survey conducted by the~~  
13 ~~department.~~

14 (B) IN ADDITION TO VISITS MADE PURSUANT TO COMPLAINT INVES-  
15 TIGATIONS, AT LEAST ONCE ANNUALLY MAKE AN UNANNOUNCED VISIT TO  
16 AND INSPECT EACH NURSING HOME LICENSED UNDER THIS ARTICLE,  
17 REGARDLESS OF WHETHER THE NURSING HOME IS CERTIFIED UNDER TITLE  
18 XVIII OR TITLE XIX.

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

26 (a) Evidence that it is currently fully accredited by a body  
27 with expertise in hospital accreditation whose hospital

1 accreditations are accepted by the United States department of  
2 health and human services for purposes of section 1865 of title  
3 XVIII of the social security act, chapter 531, 49 Stat. 620,  
4 42 U.S.C. 1395bb.

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

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

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

24 (a) Grant an extension of the hospital's current license  
25 until the next accreditation survey is completed by the body  
26 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 citing a violation of this part during a survey,  
10 FROM conducting investigations or inspections pursuant to  
11 section 20156, or FROM conducting surveys of health facilities or  
12 agencies for the purpose of complaint investigations or federal  
13 certification. This section does not prohibit the state fire  
14 marshal from conducting annual surveys of hospitals, nursing  
15 homes, and county medical care facilities.

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

24 (8) If the department determines that substantial noncompli-  
25 ance with licensure standards exists or that deficiencies that  
26 represent a threat to public safety or patient care exist based  
27 on a review of an accreditation report submitted pursuant to

1 subsection (3)(b), the department shall prepare a written summary  
2 of the substantial noncompliance or deficiencies and the  
3 hospital's response to the department's determination. The  
4 department's written summary and the hospital's response are  
5 public documents.

6       (9) ~~Investigations or inspections~~ IN ADDITION TO THE  
7 INSPECTION CONDUCTED UNDER SUBSECTION (2)(B), AN INVESTIGATION OR  
8 INSPECTION, other than ~~inspections~~ AN INSPECTION of financial  
9 records, of a health facility or agency described in section  
10 20106(1)(c), (f), (h), or (j) shall be conducted without prior  
11 notice to the health facility or agency. An employee of a state  
12 agency charged with INVESTIGATING OR inspecting the health facil-  
13 ity or agency or an employee of a local health department who  
14 directly or indirectly gives prior notice regarding an  
15 INVESTIGATION OR AN inspection, other than an inspection of the  
16 financial records, to the health facility or agency or to an  
17 employee of the health facility or agency, is guilty of a  
18 misdemeanor. ~~Consultation visits that are~~ A CONSULTATION VISIT  
19 THAT IS not for the purpose of annual or follow-up inspection or  
20 survey may be announced.

21       (10) The department shall maintain a record indicating  
22 whether ~~visits are~~ A VISIT AND INSPECTION IS announced or  
23 unannounced. Information gathered at ~~all visits~~ EACH VISIT AND  
24 INSPECTION, WHETHER announced or unannounced, shall be taken into  
25 account in licensure decisions.

26       (11) The department shall require periodic reports and a  
27 health facility or agency shall give the department access to

1 books, records, and other documents maintained by a health  
2 facility or agency to the extent necessary to carry out the pur-  
3 pose of this article and the rules promulgated under this  
4 article. The department shall respect the confidentiality of a  
5 patient's clinical record and shall not divulge or disclose the  
6 contents of ~~the records~~ A PATIENT CLINICAL RECORD in a manner  
7 that identifies an individual except under court order. The  
8 department may copy health facility or agency records as required  
9 to document findings.

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

1 surveys. The voluntary inspection described in this subsection  
2 shall be agreed upon by both the licensee and the department.

3 (13) If, upon investigation, the department or a state  
4 agency determines that an individual licensed to practice a pro-  
5 fession in this state has violated the applicable licensure stat-  
6 ute or the rules promulgated under that statute, the department,  
7 state agency, or local health department shall forward the evi-  
8 dence it has to the appropriate licensing agency.

9 (14) As used in this section:

10 (a) "Title XVIII" means title XVIII of the social security  
11 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,  
12 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to  
13 1395w-2, 1395w-4 to 1395yy, and 1395bbb to 1395ccc.

14 (b) "Title XIX" means title XIX of the social security act,  
15 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396v~~ 1396f AND  
16 1396g-1 TO 1396v.