

HOUSE BILL No. 4861

June 3, 1997, Introduced by Reps. Green, Cropsey, Kukuk, Goschka, Hammerstrom, Rhead, Gernaat and Voorhees 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 OF CONSUMER AND INDUSTRY SERVICES shall make
3 annual and other visits to each health facility or agency
4 licensed under this article for the purposes of survey, evalu-
5 ation, and consultation. Except for a health facility or agency
6 described in section 20106(1)(c), (f), (h), or (j), the depart-
7 ment shall determine whether the visits shall be announced or
8 unannounced, except that a complaint investigation shall not be
9 announced and there shall be at least 1 unannounced visit other
10 than a complaint investigation annually to a health facility or

1 agency described in section 20106(1)(c), (h), or (j). BEGINNING
2 UPON THE EXPIRATION OF 1 YEAR AFTER THE EFFECTIVE DATE OF THE
3 AMENDATORY ACT THAT ADDED THIS SENTENCE, FOR PURPOSES OF A
4 SURVEY, EVALUATION, AND CONSULTATION VISIT, THE DEPARTMENT SHALL
5 ENSURE THAT EACH STANDARD OR ANNUAL SURVEY AND REVISIT SURVEY OF
6 A LICENSED NURSING HOME IS CONDUCTED BY A SURVEY, EVALUATION, AND
7 CONSULTATION TEAM THAT INCLUDES AT LEAST 1 SURVEYOR WHO IS A
8 LICENSED REGISTERED PROFESSIONAL NURSE AND WHO HAS AT LEAST 3
9 YEARS' EXPERIENCE AS A HEALTH PROFESSIONAL EMPLOYEE OF A LICENSED
10 NURSING HOME. THE LICENSED REGISTERED PROFESSIONAL NURSE SUR-
11 VEYOR SHALL BE EMPLOYED BY OR UNDER CONTRACT TO THE DEPARTMENT.
12 A MEMBER OF A SURVEY TEAM SHALL NOT BE EMPLOYED BY A LICENSED
13 NURSING HOME OR A NURSING HOME MANAGEMENT COMPANY DOING BUSINESS
14 IN THIS STATE AT THE TIME OF CONDUCTING A SURVEY UNDER THIS
15 SECTION. THE DEPARTMENT SHALL NOT ALLOW A LICENSED REGISTERED
16 PROFESSIONAL NURSE TO BE A MEMBER OF A SURVEY TEAM FOR PURPOSES
17 OF THIS SUBSECTION IF HE OR SHE HAS BEEN INVOLUNTARILY DISCHARGED
18 FROM EMPLOYMENT WITH A NURSING HOME OR OTHER LONG-TERM CARE
19 FACILITY WITHIN THE 5 YEARS IMMEDIATELY PRECEDING THE DATE THE
20 SURVEY IS TO BE CONDUCTED.

21 (2) The department OF CONSUMER AND INDUSTRY SERVICES shall
22 make at least a biennial visit to each licensed clinical labora-
23 tory, each nursing home, and each hospice residence for the pur-
24 poses of survey, evaluation, and consultation. If a nursing home
25 is only partially certified under title XVIII or title XIX, the
26 department shall include all licensed parts of the nursing home
27 in a certification survey conducted by the department.

1 (3) The department OF CONSUMER AND INDUSTRY SERVICES shall
2 make a biennial visit to each hospital for survey and evaluation
3 for the purpose of licensure. Subject to subsection (6), the
4 department may waive the biennial visit required by this subsec-
5 tion if a hospital, as part of a timely application for license
6 renewal, requests a waiver and submits both of the following and
7 if all of the requirements of subsection (5) are met:

8 (a) Evidence that it is currently fully accredited by a body
9 with expertise in hospital accreditation whose hospital accredit-
10 ations are accepted by the United States department of health and
11 human services for purposes of section 1865 of PART C OF title
12 XVIII of the social security act, ~~chapter 531, 49 Stat. 620,~~
13 42 U.S.C. 1395bb.

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

17 (4) Except as provided in subsection (8), accreditation
18 information provided to the department OF CONSUMER AND INDUSTRY
19 SERVICES under subsection (3) is confidential, is not a public
20 record, and is not subject to court subpoena. The department
21 shall use the accreditation information only as provided in this
22 section and shall return the accreditation information to the
23 hospital within a reasonable time after a decision on the waiver
24 request is made.

25 (5) The department OF CONSUMER AND INDUSTRY SERVICES shall
26 grant a waiver under subsection (3) if the accreditation report
27 submitted under subsection (3)(b) is less than 2 years old and

1 there is no indication of substantial noncompliance with
2 licensure standards or of deficiencies that represent a threat to
3 public safety or patient care in the report, in complaints
4 involving the hospital, or in any other information available to
5 the department. If the accreditation report is 2 or more years
6 old, the department may do 1 of the following:

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

10 (b) Grant a waiver under subsection (3) based on the accred-
11 itation report that is 2 or more years old, on condition that the
12 hospital promptly submit the next accreditation report to the
13 department.

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

16 (6) The department OF CONSUMER AND INDUSTRY SERVICES shall
17 not grant more than 2 consecutive waivers under subsection (3).
18 This section does not prohibit the department from citing a vio-
19 lation of this part during a survey, conducting investigations or
20 inspections pursuant to section 20156, or conducting surveys of
21 health facilities or agencies for the purpose of complaint inves-
22 tigation or federal certification. This section does not pro-
23 hibit the state fire marshal from conducting annual surveys of
24 hospitals, nursing homes, and county medical care facilities.

25 (7) At the request of a health facility or agency, the
26 department OF CONSUMER AND INDUSTRY SERVICES may conduct a
27 consultation engineering survey of a health facility and provide

1 professional advice and consultation regarding health facility
2 construction and design. A health facility or agency may request
3 a voluntary consultation survey under this subsection at any time
4 between licensure surveys. The fees for a consultation engineer-
5 ing survey are the same as the fees established for waivers under
6 section 20161(10).

7 (8) If the department OF CONSUMER AND INDUSTRY SERVICES
8 determines that substantial noncompliance with licensure stan-
9 dards exists or that deficiencies that represent a threat to
10 public safety or patient care exist based on a review of an
11 accreditation report submitted pursuant to subsection (3)(b), the
12 department shall prepare a written summary of the substantial
13 noncompliance or deficiencies and the hospital's response to the
14 department's determination. The department's written summary and
15 the hospital's response are public documents.

16 (9) Investigations or inspections, other than inspections of
17 financial records, of a health facility or agency described in
18 section 20106(1)(c), (f), (h), or (j) shall be conducted without
19 prior notice to the health facility or agency. An employee of a
20 state agency charged with inspecting the health facility or
21 agency or an employee of a local health department who directly
22 or indirectly gives prior notice regarding an inspection, other
23 than an inspection of the financial records, to the health facil-
24 ity or agency or to an employee of the health facility or agency,
25 is guilty of a misdemeanor. Consultation visits that are not for
26 the purpose of annual or follow-up inspection or survey may be
27 announced.

1 (10) The department OF CONSUMER AND INDUSTRY SERVICES shall
2 maintain a record indicating whether visits are announced or
3 unannounced. Information gathered at all visits, announced or
4 unannounced, shall be taken into account in licensure decisions.

5 (11) The department OF CONSUMER AND INDUSTRY SERVICES shall
6 require periodic reports and a health facility or agency shall
7 give the department access to books, records, and other documents
8 maintained by a health facility or agency to the extent necessary
9 to carry out the purpose of this article and the rules promul-
10 gated under this article. The department shall respect the con-
11 fidentiality of a patient's clinical record and shall not divulge
12 or disclose the contents of the records in a manner that identi-
13 fies an individual except under court order. The department may
14 copy health facility or agency records as required to document
15 findings.

16 (12) The department OF CONSUMER AND INDUSTRY SERVICES may
17 delegate survey, evaluation, or consultation functions to another
18 state agency or to a local health department qualified to perform
19 those functions. However, the department shall not delegate
20 survey, evaluation, or consultation functions to a local health
21 department that owns or operates a hospice or hospice residence
22 licensed under this article. The delegation shall be by cost
23 reimbursement contract between the department and the state
24 agency or local health department. Survey, evaluation, or con-
25 sultation functions shall not be delegated to nongovernmental
26 agencies, except as provided in this section. The department may
27 accept voluntary inspections performed by an accrediting body

1 with expertise in clinical laboratory accreditation under part
2 205 if the accrediting body utilizes forms acceptable to the
3 department, applies the same licensing standards as applied to
4 other clinical laboratories and provides the same information and
5 data usually filed by the department's own employees when engaged
6 in similar inspections or surveys. The voluntary inspection
7 described in this subsection shall be agreed upon by both the
8 licensee and the department.

9 (13) If, upon investigation, the department OF CONSUMER AND
10 INDUSTRY SERVICES or a state agency determines that an individual
11 licensed to practice a profession in this state has violated the
12 applicable licensure statute or the rules promulgated under that
13 statute, the department, state agency, or local health department
14 shall forward the evidence it has to the appropriate licensing
15 agency.

16 (14) As used in this section:

17 (a) "Title XVIII" means title XVIII of the social security
18 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,
19 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to
20 1395w-2, 1395w-4 to 1395yy, and 1395bbb to 1395ccc.

21 (b) "Title XIX" means title XIX of the social security act,
22 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f AND 1396g-1
23 1396v.