

House Bill 5252

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 provided in this section, the  
2 department shall make annual and other visits to each health  
3 facility or agency licensed under this article for the purposes  
4 of survey, evaluation, and consultation. Except for a health  
5 facility or agency described in section 20106(1)(c), (f), (h), or  
6 (j), the department shall determine whether the visits shall be  
7 announced or unannounced, except that a complaint investigation  
8 shall not be announced and there shall be at least 1 unannounced  
9 visit other than a complaint investigation annually to a health

1 facility or agency described in section 20106(1)(c), (h), or  
2 (j).

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

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

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

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

26       (4) Except as provided in subsection (8), accreditation  
27 information provided to the department under subsection (3) is

1 confidential, is not a public record, and is not subject to court  
2 subpoena. The department shall use the accreditation information  
3 only as provided in this section and shall return the accredit-  
4 ation information to the hospital within a reasonable time after  
5 a decision on the waiver request is made.

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

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

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

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

24 (6) ~~The department shall not grant more than 2 consecutive~~  
25 ~~waivers under subsection (3).~~ This section does not prohibit the  
26 department from citing a violation of this part during a survey,  
27 conducting investigations or inspections pursuant to

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1 section 20156, or conducting surveys of health facilities or  
2 agencies for the purpose of complaint investigations or federal  
3 certification. This section does not prohibit the state fire  
4 marshal from conducting annual surveys of hospitals, nursing  
5 homes, and county medical care facilities.

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

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

23 (9) ~~Investigations~~ THE DEPARTMENT [OR] A LOCAL HEALTH  
24 DEPARTMENT SHALL CONDUCT INVESTIGATIONS or inspections, other  
25 than inspections of financial records, of a health facility or  
26 agency described in section 20106(1)(c), (f), (h), or (j) ~~shall~~  
27 ~~be conducted~~ without prior notice to the health facility or

1 agency. An employee of a state agency charged with inspecting  
2 the health facility or agency or an employee of a local health  
3 department who directly or indirectly gives prior notice regard-  
4 ing an inspection, other than an inspection of the financial  
5 records, to the health facility or agency or to an employee of  
6 the health facility or agency, is guilty of a misdemeanor.  
7 Consultation visits that are not for the purpose of annual or  
8 follow-up inspection or survey may be announced.

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

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

23       (12) The department may delegate survey, evaluation, or con-  
24 sultation functions to another state agency or to a local health  
25 department qualified to perform those functions. However, the  
26 department shall not delegate survey, evaluation, or consultation  
27 functions to a local health department that owns or operates a

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

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

21 (14) As used in this section:

22 (a) "Title XVIII" means title XVIII of the social security  
23 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,  
24 1395b-6 TO 1395b-7, 1395c to 1395i, 1395i-2 to ~~1395i-4~~ 1395i-5,  
25 1395j to 1395t, 1395u to ~~1395w-2~~ 1395w, 1395w-2 TO 1395w-4, ~~to~~  
26 ~~1395yy, and 1395bbb to 1395ccc~~ 1395w-21 TO 1395w-28, 1395x TO  
27 1395yy, AND 1395bbb TO 1395ggg.

1       (b) "Title XIX" means title XIX of the social security act,  
2 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396v~~ 1396f,  
3 1396g-1 TO 1396r-6, AND 1396r-8 TO 1396v.