

HOUSE BILL No. 4224

February 9, 1999, Introduced by Reps. Gielegthem, Jamnick, Cherry, Dennis, Woodward, Switalski, Lemmons, Bogardus, Wojno, DeHart, Rivet, Minore, Schauer, Prusi, Jacobs and Spade and referred to the Committee on Senior Health, Security and Retirement.

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)~~ COUNTY MEDICAL CARE FACILITY, A
8 HOME FOR THE AGED, A NURSING HOME, AND A HOSPICE RESIDENCE, the
9 department shall determine whether ~~the~~ visits ~~shall be~~ THAT
10 ARE NOT MADE PURSUANT TO A COMPLAINT INVESTIGATION ARE announced

1 or unannounced. ~~—, except that a complaint investigation shall~~
 2 ~~not be announced and there~~ IN ADDITION TO VISITS MADE PURSUANT
 3 TO A COMPLAINT INVESTIGATION, THE DEPARTMENT shall ~~be~~ ANNUALLY
 4 MAKE at least 1 unannounced visit ~~other than a complaint inves-~~
 5 ~~tigation annually to a health facility or agency described in~~
 6 ~~section 20106(1)(c), (h), or (j)~~ EACH COUNTY MEDICAL CARE FACIL-
 7 ITY AND HOSPICE RESIDENCE.

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

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

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

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

1 (a) Evidence that it is currently fully accredited by a body
2 with expertise in hospital accreditation whose hospital accredit-
3 ations are accepted by the United States department of health and
4 human services for purposes of section 1865 of title XVIII of the
5 social security act, chapter 531, 49 Stat. 620,
6 42 U.S.C. 1395bb.

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

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

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

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

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

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

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

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

1 (8) If the department determines that substantial
2 noncompliance with licensure standards exists or that
3 deficiencies that represent a threat to public safety or patient
4 care exist based on a review of an accreditation report submitted
5 pursuant to subsection (3)(b), the department shall prepare a
6 written summary of the substantial noncompliance or deficiencies
7 and the hospital's response to the department's determination.
8 The department's written summary and the hospital's response are
9 public documents.

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

26 (10) The department shall maintain a record indicating
27 whether ~~visits are~~ A VISIT AND INSPECTION IS announced or

1 unannounced. Information gathered at ~~all visits~~ EACH VISIT AND
2 INSPECTION, WHETHER announced or unannounced, shall be taken into
3 account in licensure decisions.

4 (11) The department shall require periodic reports and a
5 health facility or agency shall give the department access to
6 books, records, and other documents maintained by a health facil-
7 ity or agency to the extent necessary to carry out the purpose of
8 this article and the rules promulgated under this article. The
9 department shall respect the confidentiality of a patient's clin-
10 ical record and shall not divulge or disclose the contents of
11 ~~the records~~ A PATIENT CLINICAL RECORD in a manner that identi-
12 fies an individual except under court order. The department may
13 copy health facility or agency records as required to document
14 findings.

15 (12) The department may delegate survey, evaluation, or con-
16 sultation functions to another state agency or to a local health
17 department qualified to perform those functions. However, the
18 department shall not delegate survey, evaluation, or consultation
19 functions to a local health department that owns or operates a
20 hospice or hospice residence licensed under this article. The
21 delegation shall be by cost reimbursement contract between the
22 department and the state agency or local health department.
23 Survey, evaluation, or consultation functions shall not be dele-
24 gated to nongovernmental agencies, except as provided in this
25 section. The department may accept voluntary inspections per-
26 formed by an accrediting body with expertise in clinical
27 laboratory accreditation under part 205 if the accrediting body

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

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

13 (14) As used in this section:

14 (a) "Title XVIII" means title XVIII of the social security
 15 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b,
 16 1395b-2, 1395b-6 TO 1395b-7, 1395c to 1395i, 1395i-2 to ~~1395i-4~~
 17 1395i-5, 1395j to 1395t, 1395u to ~~1395w-2~~ 1395w, ~~1395w-4 to~~
 18 ~~1395yy~~ 1395w-2 TO 1395w-4, 1395w-21 TO 1395w-28, 1395x TO
 19 1395yy, and 1395bbb to ~~1395ccc~~ 1395ggg.

20 (b) "Title XIX" means title XIX of the social security act,
 21 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396v~~ 1396f,
 22 1396g-1 TO 1396r-6, AND 1396r-8 TO 1396v.