

Act No. 170  
Public Acts of 2000  
Approved by the Governor  
June 20, 2000  
Filed with the Secretary of State  
June 20, 2000  
EFFECTIVE DATE: June 20, 2000

**STATE OF MICHIGAN  
90TH LEGISLATURE  
REGULAR SESSION OF 2000**

Introduced by Rep. DeWeese

# **ENROLLED HOUSE BILL No. 5252**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 20155 (MCL 333.20155), as amended by 1996 PA 267.

*The People of the State of Michigan enact:*

Sec. 20155. (1) Except as provided in this section, the department shall make annual and other visits to each health facility or agency licensed under this article for the purposes of survey, evaluation, and consultation. Except for a health facility or agency described in section 20106(1)(c), (f), (h), or (j), the department shall determine whether the visits shall be announced or unannounced, except that a complaint investigation shall not be announced and there shall be at least 1 unannounced visit other than a complaint investigation annually to a health facility or agency described in section 20106(1)(c), (h), or (j).

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

(3) The department shall make a biennial visit to each hospital for survey and evaluation for the purpose of licensure. The department may waive the biennial visit required by this subsection if a hospital, as part of a timely application for license renewal, requests a waiver and submits both of the following and if all of the requirements of subsection (5) are met:

(a) Evidence that it is currently fully accredited by a body with expertise in hospital accreditation whose hospital accreditations are accepted by the United States department of health and human services for purposes of section 1865 of title XVIII of the social security act, 42 U.S.C. 1395bb.

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

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

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

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

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

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

(6) This section does not prohibit the department from citing a violation of this part during a survey, conducting investigations or inspections pursuant to section 20156, or conducting surveys of health facilities or agencies for the purpose of complaint investigations or federal certification. This section does not prohibit the state fire marshal from conducting annual surveys of hospitals, nursing homes, and county medical care facilities.

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

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

(9) The department or a local health department shall conduct investigations or inspections, other than inspections of financial records, of a health facility or agency described in section 20106(1)(c), (f), (h), or (j) without prior notice to the health facility or agency. An employee of a state agency charged with inspecting the health facility or agency or an employee of a local health department who directly or indirectly gives prior notice regarding an inspection, other than an inspection of the financial records, to the health facility or agency or to an employee of the health facility or agency, is guilty of a misdemeanor. Consultation visits that are not for the purpose of annual or follow-up inspection or survey may be announced.

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

(11) The department shall require periodic reports and a health facility or agency shall give the department access to books, records, and other documents maintained by a health facility or agency to the extent necessary to carry out the purpose of this article and the rules promulgated under this article. The department shall respect the confidentiality of a patient's clinical record and shall not divulge or disclose the contents of the records in a manner that identifies an individual except under court order. The department may copy health facility or agency records as required to document findings.

(12) The department may delegate survey, evaluation, or consultation functions to another state agency or to a local health department qualified to perform those functions. However, the department shall not delegate survey, evaluation, or consultation functions to a local health department that owns or operates a hospice or hospice residence licensed under this article. The delegation shall be by cost reimbursement contract between the department and the state agency or local health department. Survey, evaluation, or consultation functions shall not be delegated to nongovernmental agencies, except as provided in this section. The department may accept voluntary inspections performed by an accrediting body with expertise in clinical laboratory accreditation under part 205 if the accrediting body utilizes forms acceptable to the department, applies the same licensing standards as applied to other clinical laboratories and provides the same information and data usually filed by the department's own employees when

engaged in similar inspections or surveys. The voluntary inspection described in this subsection shall be agreed upon by both the licensee and the department.

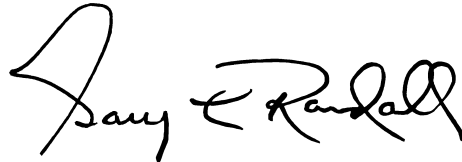
(13) If, upon investigation, the department or a state agency determines that an individual licensed to practice a profession in this state has violated the applicable licensure statute or the rules promulgated under that statute, the department, state agency, or local health department shall forward the evidence it has to the appropriate licensing agency.

(14) As used in this section:

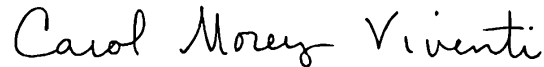
(a) "Title XVIII" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved .....

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Governor.