

# HOUSE BILL No. 4635

April 13, 1989, Introduced by Reps. Stallworth, Owen, DeMars, Palamara, Porreca, Bennane, Varga, Harrison, Wallace, Watkins, Joe Young, Sr., Gire, Pitoniak, Webb, Clack, Leland, Rocca, Saunders, Hoffman, Dunaskiss and Profit and referred to the Committee on Public Health.

A bill to amend sections 20104, 20106, 20109, 20115, 20121, 20123, 20124, 20126, 20131, 20141, 20142, 20151, 20152, 20155, 20156, 20161, 20162, 20164, 20165, 20166, 20168, 20169, 20175, and 20199 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 20106 as amended by Act No. 311 of the Public Acts of 1984, section 20126 as amended by Act No. 79 of the Public Acts of 1981, section 20152 as amended by Act No. 111 of the Public Acts of 1981, section 20155 as amended by Act No. 474 of the Public Acts of 1982, section 20156 as amended by Act No. 78 of the Public Acts of 1986, sections 20161, 20164, 20165, and 20166 as amended by Act No. 332 of the Public Acts of 1988, section 20169 as added by Act No. 489 of the Public Acts of 1988, and section 20175 as amended by Act No. 174 of the Public Acts of

1986, being sections 333.20104, 333.20106, 333.20109, 333.20115, 333.20121, 333.20123, 333.20124, 333.20126, 333.20131, 333.20141, 333.20142, 333.20151, 333.20152, 333.20155, 333.20156, 333.20161, 333.20162, 333.20164, 333.20165, 333.20166, 333.20168, 333.20169, 333.20175, and 333.20199 of the Michigan Compiled Laws; to add part 212; and to repeal certain parts of this act on a specific date.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Sections 20104, 20106, 20109, 20115, 20121,  
2 20123, 20124, 20126, 20131, 20141, 20142, 20151, 20152, 20155,  
3 20156, 20161, 20162, 20164, 20165, 20166, 20168, 20169, 20175,  
4 and 20199 of Act No. 368 of the Public Acts of 1978, section  
5 20106 as amended by Act No. 311 of the Public Acts of 1984, sec-  
6 tion 20126 as amended by Act No. 79 of the Public Acts of 1981,  
7 section 20152 as amended by Act No. 111 of the Public Acts of  
8 1981, section 20155 as amended by Act No. 474 of the Public Acts  
9 of 1982, section 20156 as amended by Act No. 78 of the Public  
10 Acts of 1986, sections 20161, 20164, 20165, and 20166 as amended  
11 by Act No. 332 of the Public Acts of 1988, section 20169 as added  
12 by Act No. 489 of the Public Acts of 1988, and section 20175 as  
13 amended by Act No. 174 of the Public Acts of 1986, being sections  
14 333.20104, 333.20106, 333.20109, 333.20115, 333.20121, 333.20123,  
15 333.20124, 333.20126, 333.20131, 333.20141, 333.20142, 333.20151,  
16 333.20152, 333.20155, 333.20156, 333.20161, 333.20162, 333.20164,  
17 333.20165, 333.20166, 333.20168, 333.20169, 333.20175, and  
18 333.20199 of the Michigan Compiled Laws, are amended and part 212  
19 is added to read as follows:

1       Sec. 20104. (1) "CERTIFICATE OF REGISTRATION" MEANS A  
2 WRITTEN DOCUMENT ISSUED BY THE DEPARTMENT AS EVIDENCE THAT A HOME  
3 HEALTH AGENCY HAS BEEN GRANTED REGISTRATION.

4       (2) ~~-(1)-~~ "Certification" means the issuance of a document  
5 by the department to a health facility or agency attesting to the  
6 fact that the facility or agency meets both of the following:

7       (a) ~~It complies~~ COMPLIES with applicable statutory and  
8 regulatory requirements and standards.

9       (b) ~~It is~~ IS eligible to participate as a provider of care  
10 and services in a specific federal or state health program.

11       (3) ~~-(2)-~~ "Clinical laboratory" means a facility patronized  
12 by, or at the direction of, a physician, health officer, or other  
13 person authorized by law to obtain information for the diagnosis,  
14 prevention, or treatment of disease or the assessment of a medi-  
15 cal condition by the microbiological, serological, histological,  
16 hematological, immunohematological, biophysical, cytological,  
17 pathological, or biochemical examination of materials derived  
18 from the human body, except as provided in section 20507.

19       (4) ~~-(3)-~~ "Consumer" means a person who is not a provider of  
20 health care. ~~as defined in section 1531(3) of title 15 of the~~  
21 ~~public health service act, 42 U.S.C. 300n.~~

22       (5) ~~-(4)-~~ "County medical care facility" means a nursing  
23 care facility, other than a hospital long-term care unit, which  
24 provides organized nursing care and medical treatment to 7 or  
25 more unrelated individuals who are suffering or recovering from  
26 illness, injury, or infirmity and which is owned by a county or  
27 counties.

1       (6) ~~(5)~~ "Freestanding surgical outpatient facility" means  
2 a facility, other than the office of a physician, dentist, podia-  
3 trist, or other private practice office, offering a surgical pro-  
4 cedure and related care that in the opinion of the attending phy-  
5 sician can be safely performed without requiring overnight inpa-  
6 tient hospital care. It does not include a surgical outpatient  
7 facility owned by and operated as part of a hospital.

8       Sec. 20106. (1) "Health facility or agency", except as pro-  
9 vided in section 20115, means:

10       (a) Ambulance operation or advanced mobile emergency care  
11 service, or limited advanced mobile emergency care service.

12       (b) Clinical laboratory.

13       (c) County medical care facility.

14       (d) Freestanding surgical outpatient facility.

15       (e) Health maintenance organization.

16       (f) Home for the aged.

17       (G) HOME HEALTH AGENCY.

18       (H) ~~(g)~~ Hospital.

19       (I) ~~(h)~~ Nursing home.

20       (J) ~~(i)~~ Hospice.

21       (K) ~~(j)~~ A facility or agency listed in subdivisions (a) to  
22 ~~(h)~~ (I) located in a correctional institution or a university,  
23 college, or other educational institution.

24       (2) "Health maintenance organization" means a health facil-  
25 ity or agency that:

26       (a) Delivers health maintenance services which are medically  
27 indicated to enrollees under the terms of its health maintenance

1 contract, directly or through contracts with affiliated  
2 providers, in exchange for a fixed prepaid sum or per capita pre-  
3 payment, without regard to the frequency, extent, or kind of  
4 health services.

5 (b) Is responsible for the availability, accessibility, and  
6 quality of the health maintenance services provided.

7 (3) "Home for the aged" means a supervised personal care  
8 facility, other than a hotel, adult foster care facility, hospi-  
9 tal, nursing home, or county medical care facility, that provides  
10 room, board, and supervised personal care to 21 or more unrelat-  
11 ed, nontransient, individuals 60 years of age or older. Home for  
12 the aged includes a supervised personal care facility for 20 or  
13 fewer individuals 60 years of age or older if the facility is  
14 operated in conjunction with and as a distinct part of a licensed  
15 nursing home.

16 (4) "HOME HEALTH AGENCY" MEANS THAT TERM AS DEFINED IN  
17 SECTION 21201.

18 (5) ~~(4)~~ "Hospice" means a health care program ~~which~~ THAT  
19 provides a coordinated set of services rendered at home or in  
20 outpatient or institutional settings for individuals suffering  
21 from a disease or condition with a terminal prognosis.

22 (6) ~~(5)~~ "Hospital" means a facility offering inpatient,  
23 overnight care, and services for observation, diagnosis, and  
24 active treatment of an individual with a medical, surgical,  
25 obstetric, chronic, or rehabilitative condition requiring the  
26 daily direction or supervision of a physician. The term does not

1 include a hospital licensed or operated by the department of  
2 mental health.

3       (7) ~~-(6)-~~ "Hospital long-term care unit" means a nursing  
4 care facility ~~—~~ owned and operated by and as part of a hospital  
5 ~~—~~ providing organized nursing care and medical treatment to 7  
6 or more unrelated individuals suffering or recovering from ill-  
7 ness, injury, or infirmity.

8       (8) ~~-(7)-~~ "Limited advance mobile emergency care service"  
9 means a person or a governmental entity ~~—which—~~ THAT provides,  
10 for profit or otherwise, the licensed personnel, vehicles, and  
11 other equipment required to perform all of the following advanced  
12 emergency medical techniques at the scene of an emergency:

13       (a) Endotracheal intubation.

14       (b) Intravenous lifeline.

15       (c) Establishment and maintenance of an airway.

16       (d) Other techniques approved by the department and consis-  
17 tent with department approved criteria for emergency medical  
18 technician specialist training.

19       Sec. 20109. (1) "Nursing home" means a nursing care facili-  
20 ty, including a county medical care facility, but excluding a  
21 hospital or a facility created by Act No. 152 of the Public Acts  
22 of 1885, as amended, being sections 36.1 to 36.12 of the Michigan  
23 Compiled Laws, which provides organized nursing care and medical  
24 treatment to 7 or more unrelated individuals suffering or recov-  
25 ering from illness, injury, or infirmity.

26       (2) "Person" means a person as defined in section 1106 or a  
27 governmental entity.

1 (3) "Public member" means a member of the general public who  
 2 is not a provider; who does not have an ownership interest in or  
 3 contractual relationship with a nursing home other than a patient  
 4 contract; who does not have a contractual relationship with a  
 5 person who does substantial business with a nursing home; and who  
 6 is not the spouse, parent, sibling, or child of an individual who  
 7 has an ownership interest in or contractual relationship with a  
 8 nursing home, other than a patient contract.

9 (4) "REGISTRANT" MEANS THE HOLDER OF A CERTIFICATE OF REGIS-  
 10 TRATION ISSUED UNDER PART 212.

11 (5) "REGISTRATION" MEANS AN AUTHORIZATION GRANTED BY THE  
 12 DEPARTMENT UNDER PART 212 AND EVIDENCED BY A CERTIFICATE OF REG-  
 13 ISTRATION GRANTING PERMISSION TO A PERSON TO PROVIDE HOME HEALTH  
 14 SERVICES AND TO USE A DESIGNATED TITLE THAT WOULD OTHERWISE BE  
 15 PROHIBITED UNDER THAT PART.

16 (6) ~~(4)~~ "Skilled nursing facility" means a hospital  
 17 long-term care unit, nursing home, county medical care facility,  
 18 or other nursing care facility, or a distinct part thereof, cer-  
 19 tified by the department to provide skilled nursing care.

20 Sec. 20115. (1) The department may promulgate rules to fur-  
 21 ther define the term "health facility or agency" and the defini-  
 22 tion of any health facility or agency listed in section 20106 as  
 23 required to implement this article. The department may define a  
 24 specific organization as a health facility or agency for the sole  
 25 purpose of certification authorized under this article. For pur-  
 26 pose of certification only an organization defined in section  
 27 ~~20106(5)~~ 20106(6), 20108(1), or ~~20109(3)~~ 20109(6) is

1 considered a health facility or agency. The term "health  
2 facility or agency" ~~shall~~ DOES not mean a visiting nurse serv-  
3 ice or home aide service conducted by and for the adherents of a  
4 church or religious denomination for the purpose of providing  
5 service for those who depend upon spiritual means through prayer  
6 alone for healing.

7 (2) The department shall promulgate rules to differentiate a  
8 freestanding surgical outpatient facility from a private office  
9 of a practicing physician, dentist, podiatrist, or other private  
10 practice office.

11 Sec. 20121. The health facilities and agencies advisory  
12 commission is created in the department. The governor shall  
13 appoint the members with the advice and consent of the senate.  
14 Half the members shall be consumers and half the members shall be  
15 representative of different types of licensees AND REGISTRANTS,  
16 with at least 1 representative of each type. Membership shall  
17 include at least 1 practicing physician, 1 registered nurse, and  
18 1 enrollee of a health maintenance organization who is a consumer  
19 of health care. The director shall serve as an ex officio member  
20 of the advisory commission without vote.

21 Sec. 20123. (1) The advisory commission shall meet at the  
22 call of its chairperson or the director at least twice each  
23 year.

24 (2) The advisory commission shall elect a chairperson and  
25 vice-chairperson for terms of 2 years. The chairperson shall be  
26 a consumer and the vice-chairperson a licensee OR REGISTRANT



1 representative. A vacancy in either office shall be filled by  
2 election for the balance of the unexpired term.

3 (3) The advisory commission shall determine the number of  
4 voting members that constitute a quorum for the transaction of  
5 business.

6 (4) Advisory commission members and task force members shall  
7 be reimbursed for expenses incurred in the performance of offi-  
8 cial duties as provided in section 1216.

9 Sec. 20124. The advisory commission shall:

10 (a) Approve rules relating to the licensure, REGISTRATION,  
11 and certification of health facilities and agencies and the  
12 administration of this article before their promulgation.

13 (b) Receive reports of licenses OR REGISTRATIONS denied,  
14 limited, suspended, or revoked pursuant to this article.

15 (c) Advise the department as to administration of health  
16 facility and agency licensure, REGISTRATION, and certification  
17 functions, including recommendations with respect to licensing  
18 AND REGISTRATION actions.

19 (d) Biennially conduct a review and prepare a written evalu-  
20 ation of health facility and agency licensure, REGISTRATION, and  
21 certification functions performed by the department, including  
22 appropriate recommendations. The recommendations shall give par-  
23 ticular attention to policies as to public disclosure and nondis-  
24 crimination and the standardization and integration of rules  
25 common to more than 1 category of health facility or agency.

1 (e) Review complaints made under section 20176 and review  
2 health maintenance organization enrollee grievances pursuant to  
3 section 21088.

4 (f) Provide other assistance the department reasonably  
5 requests.

6 Sec. 20126. (1) The advisory commission chairperson shall  
7 appoint 4 task forces to advise the commission in carrying out  
8 its duties as follows:

9 (a) Task force 1 shall assist in matters pertaining to the  
10 licensure, REGISTRATION, and certification of health facilities  
11 and agencies under this part, except ambulance operations,  
12 limited advanced mobile emergency care services, advanced mobile  
13 emergency care services, health maintenance organizations, and  
14 nursing homes.

15 (b) Task force 2 shall assist in matters pertaining to the  
16 licensure and certification of ambulance operations, limited  
17 advanced mobile emergency care services, and advanced mobile  
18 emergency care services.

19 (c) Task force 3 shall assist in matters pertaining to the  
20 licensure and certification of health maintenance organizations.

21 (d) Task force 4 shall assist in matters pertaining to the  
22 licensure of nursing homes as provided in section 20127.

23 (2) Except as provided by subsections (4), (5), and (6),  
24 each task force shall be composed of a number of advisory commis-  
25 sion members to be determined by the chairperson. The chair-  
26 person with the approval of the director may appoint  
27 noncommission members to each task force as associate task force

1 members if necessary to provide adequate expert professional and  
2 technical support.

3 (3) The department shall provide staff support to the  
4 advisory commission and its task forces.

5 (4) The statewide emergency medical services advisory coun-  
6 cil created in section 20723 shall be appointed as task force 2  
7 and shall perform the duties set forth in this section.

8 (5) Initial appointments to task force 3 shall include the  
9 members of the commission created by section 7 of former Act  
10 No. 264 of the Public Acts of 1974.

11 (6) Task force 4 shall be established as provided in section  
12 20127.

13 Sec. 20131. (1) The department shall establish a comprehen-  
14 sive system of licensure, REGISTRATION, and certification for  
15 health facilities or agencies in accordance with this article  
16 to:

17 (a) Protect the health, safety, and welfare of individuals  
18 receiving care and services in or from a health facility or  
19 agency.

20 (b) Assure the medical accountability for reimbursed care  
21 provided by a certified health facility or agency participating  
22 in a federal or state health program.

23 (2) The department may certify a health facility or agency,  
24 or part thereof, defined in section 20106 or under section 20115  
25 when certification is required by state or federal law, rule, or  
26 regulation.

1       (3) The department shall coordinate all functions in state  
2 government affecting health facilities and agencies licensed OR  
3 REGISTERED under this article and cooperate with other state  
4 agencies which establish standards or requirements for health  
5 facilities and agencies to assure necessary, equitable, and con-  
6 sistent state supervision of licensees AND REGISTRANTS without  
7 unnecessary duplication of survey, evaluation, and consultation  
8 services or complaint investigations. The department may enter  
9 into agreements with other state agencies necessary to accomplish  
10 this purpose.

11       (4) The department shall utilize public disclosure to  
12 improve the effectiveness of licensure AND REGISTRATION.

13       Sec. 20141. (1) ~~A~~ EXCEPT FOR A HOME HEALTH AGENCY REGIS-  
14 TERED UNDER PART 212, A person shall not establish or maintain  
15 and operate a health facility or agency without holding a license  
16 from the department.

17       (2) A health facility or agency is not eligible to partici-  
18 pate in a federal or state health program requiring certification  
19 without current certification from the department.

20       (3) A health facility or agency shall have the physician,  
21 professional nursing, health professional, technical and support-  
22 ive personnel, and the technical, diagnostic, and treatment serv-  
23 ices and equipment necessary to assure the safe performance of  
24 the health care undertaken by or in the facility or agency.

25       (4) Licensure and certification of a health facility or  
26 agency shall be evidence of the fact that the facility or agency

1 complies with applicable statutory and regulatory requirements  
2 and standards at the time of issuance.

3 (5) A health facility or agency shall provide the department  
4 with the data and statistics required to enable the department to  
5 carry out functions required by federal and state law, including  
6 rules and regulations.

7 Sec. 20142. (1) A health facility or agency shall apply for  
8 licensure, REGISTRATION, or certification on a form authorized  
9 and provided by the department. The application shall include  
10 attachments, additional data, and information required by the  
11 department.

12 (2) An applicant shall certify the accuracy of information  
13 supplied in the application and supplemental statements.

14 (3) An applicant or a licensee under part 213 or 217 shall  
15 disclose the names, addresses, principal occupations, and offi-  
16 cial positions of all persons who have an ownership interest in  
17 the health facility or agency. If the health facility or agency  
18 is located on or in leased real estate, the applicant or licensee  
19 shall disclose the name of the lessor and any direct or indirect  
20 interest the applicant or licensee has in the lease other than as  
21 lessee. A change in ownership shall be reported to the director  
22 not less than 15 days before the change occurs, except that a  
23 person purchasing stock of a company registered pursuant to the  
24 securities exchange act of 1934, ~~15 U.S.C. 78a to 78kk~~ CHAPTER  
25 404, 48 STAT. 881, is exempt from disclosing ownership in the  
26 facility. A person required to file a beneficial ownership  
27 report pursuant to section 16(a) OF TITLE I of the securities

1 exchange act of 1934, 15 U.S.C. 78p, shall file with the  
2 department information relating to securities ownership required  
3 by the department rule or order. An applicant, ~~or~~ licensee, OR  
4 REGISTRANT proposing a sale of a nursing home OR HOME HEALTH  
5 AGENCY to another person shall provide the department with writ-  
6 ten, advance notice of the proposed sale. The applicant or  
7 licensee and the other parties to the sale shall arrange to meet  
8 with specified department representatives and shall obtain before  
9 the sale a determination of the items of noncompliance with  
10 applicable law and rules which shall be corrected. The depart-  
11 ment shall notify the respective parties of the items of noncom-  
12 pliance ~~prior to~~ BEFORE the change of ownership and shall indi-  
13 cate that the items of noncompliance must be corrected as a con-  
14 dition of issuance of a license to the new owner. The department  
15 may accept reports filed with the securities and exchange commis-  
16 sion relating to the filings. A person who violates this subsec-  
17 tion is guilty of a misdemeanor, punishable by a fine of not more  
18 than \$1,000.00 for each violation.

19 (4) An applicant or licensee under part 217 shall disclose  
20 the names and business addresses of suppliers who furnish goods  
21 or services to an individual nursing home or a group of nursing  
22 homes under common ownership, the aggregate charges for which  
23 exceed \$5,000.00 in a 12-month period which includes a month in a  
24 nursing home's current fiscal year. ~~An~~ THE applicant or  
25 licensee shall disclose the names, addresses, principal occupa-  
26 tions, and official positions of all persons who have an  
27 ownership interest in a business ~~which~~ THAT furnishes goods or

1 services to an individual nursing home or to a group of nursing  
2 homes under common ownership, if both of the following apply:

3 (a) The person, or the person's spouse, parent, sibling, or  
4 child has an ownership interest in the nursing home purchasing  
5 the goods or services.

6 (b) The aggregate charges for the goods or services pur-  
7 chased exceeds \$5,000.00 in a 12-month period ~~which~~ THAT  
8 includes a month in the nursing home's current fiscal year.

9 (5) AN APPLICANT FOR REGISTRATION SHALL APPLY ACCORDING TO  
10 THE REQUIREMENTS OF SECTION 21207.

11 (6) ~~(5)~~ An applicant, ~~or~~ licensee, OR REGISTRANT who  
12 makes a false statement in an application or statement required  
13 by the department pursuant to this article is guilty of a felony,  
14 punishable by imprisonment for not more than 4 years ~~—~~ or a  
15 fine of not more than \$30,000.00, or both.

16 Sec. 20151. A licensee, REGISTRANT, or certificate holder  
17 shall cooperate with the department in carrying out its responsi-  
18 bility under this article. The department may provide profes-  
19 sional advice and consultation as to the quality of facility or  
20 agency aspects of health care and services provided by the  
21 applicant, ~~or~~ licensee, OR REGISTRANT.

22 Sec. 20152. (1) A licensee OR REGISTRANT shall certify ALL  
23 OF THE FOLLOWING to the department, as part of its application  
24 for licensing and certification ~~—that~~ OR ITS APPLICATION FOR  
25 REGISTRATION:

26 (a) ~~All~~ THAT ALL phases of its operation, including its  
27 training programs, comply with state and federal laws prohibiting

1 discrimination. The applicant shall direct the administrator of  
2 the health facility or agency to take the necessary action to  
3 assure that the HEALTH facility or agency is, in fact, so  
4 operated.

5 (b) ~~Selection~~ THAT SELECTION and appointment of physicians  
6 to its medical staff is DONE without discrimination on the basis  
7 of licensure or registration as doctors of medicine or doctors of  
8 osteopathic medicine and surgery.

9 (2) This section does not prohibit a health facility or  
10 agency from developing facilities and programs of care that are  
11 for specific ages or sexes or rating individuals for purposes of  
12 determining appropriate reimbursement for care and services.

13 Sec. 20155. (1) Except as provided for clinical laborato-  
14 ries in section 20511, the department shall make annual and other  
15 visits to health facilities and agencies covered by this article,  
16 other than a licensee under part 215, for the purposes of survey,  
17 evaluation, and consultation. Except for facilities described in  
18 section 20106(1)(f) and ~~(h)~~ (I), the department shall determine  
19 whether the visits shall be announced or unannounced, except that  
20 a complaint investigation shall not be announced and there shall  
21 be at least 1 unannounced visit other than a complaint investiga-  
22 tion annually to the facilities described in section 20106(1)(c)  
23 and (d). The department shall make biennial visits to hospitals  
24 for survey, and for evaluation for the purpose of licensure.  
25 However, this requirement shall not be construed to prohibit the  
26 department from conducting investigations or inspections pursuant  
27 to section 20156, or from conducting surveys of hospitals for the



1 purpose of complaint investigation or federal certification,  
2 ~~nor~~ OR to preclude the state fire marshal from conducting  
3 annual surveys of hospitals.

4 (2) Investigations or inspections, other than inspections of  
5 financial records, of facilities described in section 20106(1)(f)  
6 and ~~(h)~~ (I) shall be conducted without prior notice to the  
7 facility. An employee of a state agency charged with inspecting  
8 the facility or an employee of a local health department who  
9 directly or indirectly gives prior notice regarding an inspec-  
10 tion, other than an inspection of the financial records, to the  
11 facility or to an employee ~~thereof~~ OF THE FACILITY, is guilty  
12 of a misdemeanor. Consultation visits, not for the purpose of  
13 annual or follow-up inspection or survey, may be announced.

14 (3) The department shall maintain a record indicating  
15 whether visits are announced or unannounced. Information gath-  
16 ered at all visits, announced or unannounced, shall be taken into  
17 account in licensure decisions.

18 (4) The department shall require periodic reports and shall  
19 have access to books, records, and other documents maintained by  
20 a health facility or agency to the extent necessary to carry out  
21 the purpose of this article and the rules promulgated under this  
22 article. The department shall respect the confidentiality of a  
23 patient's clinical record and shall not divulge or disclose the  
24 contents of the records in a manner ~~which~~ THAT identifies an  
25 individual except under court order. The department ~~has the~~  
26 ~~right to~~ MAY copy health facility or agency records as required  
27 to document findings.

1 (5) The department may delegate survey, evaluation, or  
2 consultation functions to another state agency or to a local  
3 health department qualified to perform them. The delegation  
4 shall be by cost reimbursement contract between the department  
5 and the state agency or local health department. Survey, evalu-  
6 ation, or consultation functions shall not be delegated to non-  
7 governmental agencies, except as provided in this section. The  
8 department may accept voluntary inspections of an accrediting  
9 body with expertise in clinical laboratory accreditation to per-  
10 form inspections and surveys under part 205 ~~provided that~~ IF  
11 the accrediting body utilizes forms acceptable to the department,  
12 applies the same licensing standards as applied to other clinical  
13 laboratories and provides the same information and data usually  
14 filed by the department's own employees when engaged in similar  
15 inspections or surveys. This voluntary inspection shall be  
16 agreed upon by both the licensee and the department.

17 (6) If, upon investigation, the department or a state agency  
18 OR LOCAL HEALTH DEPARTMENT determines that a person licensed to  
19 practice a profession in this state has violated the applicable  
20 licensure statute or the rules promulgated under that statute,  
21 the department, state agency, or local health department shall  
22 forward the evidence it has to the appropriate licensing agency.

23 Sec. 20156. (1) A representative of the department of  
24 public health or the state fire marshal division of the depart-  
25 ment of state police, upon presentation of proper identification,  
26 may enter the premises of an applicant, ~~or~~ licensee, OR  
27 REGISTRANT at any reasonable time to determine whether the

1 applicant, ~~or~~ licensee, OR REGISTRANT meets the requirements of  
2 this article and the rules promulgated under this article. The  
3 director; the director of ~~the department of~~ social services;  
4 the state fire marshal; the director of the office of services to  
5 the aging; or the director of a local health department; or an  
6 authorized representative of the director, the director of the  
7 department of social services, the state fire marshal, the direc-  
8 tor of the office of services to the aging, or the director of a  
9 local health department may enter on the premises of an applicant  
10 or licensee under part 217 at any time in the course of carrying  
11 out program responsibilities.

12 (2) The state fire marshal division of the department of  
13 state police shall enforce rules promulgated by the state fire  
14 safety board for health facilities and agencies to assure that  
15 physical facilities owned, maintained, or operated by a health  
16 facility or agency are planned, constructed, and maintained in a  
17 manner to protect the health, safety, and welfare of patients.

18 (3) The department of public health shall not issue a  
19 license or certificate to a health facility or agency until it  
20 receives an appropriate certificate of approval from the state  
21 fire marshal division of the department of state police. For  
22 purposes of this section, a decision of the state fire marshal  
23 division of the department of state police to issue a certificate  
24 controls over that of a local fire department.

25 (4) Subsections (2) and (3) do not apply to a health facil-  
26 ity or an agency licensed under part 205, 207, ~~or~~ 210, OR 212.

1       Sec. 20161. (1) Fees for health facility and agency  
 2 licenses and certificates of need shall be assessed on an annual  
 3 basis by the department as provided in this act, in accordance  
 4 with the following fee schedule:

5     (a) Freestanding surgical out-  
 6 patient facilities..... \$   238.00 per facility.  
 7     (b) Hospitals..... \$     8.28 per licensed bed.  
 8     (c) Nursing homes, county medi-  
 9 cal care facilities, and hospital  
 10 long-term care units..... \$     2.20 per licensed bed.  
 11     (d) Homes for the aged..... \$     6.27 per licensed bed.  
 12     (e) Health maintenance  
 13 organizations..... \$1,000.00 for an initial  
 14                                   license; 80 cents per sub-  
 15                                   scriber for a renewal license  
 16                                   (3-year); \$100.00 for a certif-  
 17                                   icate of authority for  
 18                                   planning.  
 19     (f) Clinical laboratories..... \$   475.00 per laboratory.  
 20     (g) Health care delivery and  
 21 financing system under section  
 22 21042..... \$1,000.00 for an initial  
 23                                   license; effective January 1,  
 24                                   1987, \$1,000.00 for 3-year  
 25                                   renewal license for prepaid  
 26                                   institutional programs,

1                   \$5,000.00 for 3-year renewal  
2                   license for organizations  
3                   determined by the department to  
4                   offer a single form of health  
5                   care service, and 80 cents per  
6                   subscriber for all other 3-year  
7                   renewal licenses under  
8                   section 21042.

9           (2) The base fee for a certificate of need shall be \$750.00  
10 for each application. For a project requiring a projected capi-  
11 tal expenditure of more than \$150,000.00 but less than  
12 \$1,500,000.00, an additional fee of \$2,000.00 shall be added to  
13 the base fee. For a project requiring a projected capital expen-  
14 diture of \$1,500,000.00 or more, an additional fee of \$3,500.00  
15 shall be added to the base fee.

16           (3) With the exception of health maintenance organizations,  
17 when licensure is for more than 1 year, the fees described in  
18 subsection (1) shall be multiplied by the number of years for  
19 which the license is issued, and the total amount of the fees  
20 shall be collected in the year in which the license is issued.

21           (4) Fees described in this section shall be payable to the  
22 department at the time an application for a license, permit, or  
23 certificate is submitted. If an application for a license,  
24 CERTIFICATE OF REGISTRATION, CERTIFICATE OF REGISTRATION, permit,  
25 or certificate is denied or if a license, CERTIFICATE OF  
26 REGISTRATION, permit, or certificate is revoked before its

1 expiration date, the fees paid to the department shall not be  
2 refunded.

3 (5) The fee for a provisional license or temporary permit  
4 shall be the same as for a license. A license may be issued at  
5 the expiration date of a temporary permit without an additional  
6 fee for the balance of the period for which the fee was paid if  
7 the requirements for licensure are met.

8 (6) The department may charge a fee to recover the cost of  
9 purchase or production and distribution of proficiency evaluation  
10 samples which are supplied to clinical laboratories pursuant to  
11 section 20521(3).

12 (7) In addition to the fees imposed under subsection (1), a  
13 fee of \$25.00 shall be submitted to the department for each reis-  
14 suance during the licensure period of a clinical laboratory  
15 license.

16 (8) Except for the licensure of clinical laboratories, not  
17 more than half the annual cost of licensure activities as deter-  
18 mined by the department shall be provided by license fees.

19 (9) AN APPLICANT FOR REGISTRATION OR RENEWAL OF REGISTRATION  
20 SHALL PAY THE FEE SET FORTH IN SECTION 21207.

21 (10) ~~(9) Effective with the fiscal year beginning October~~  
22 ~~1, 1982, the~~ THE fees collected under this section shall be  
23 deposited in the state treasury, to the credit of the general  
24 fund.

25 Sec. 20162. (1) Upon a determination that a health facility  
26 or agency is in compliance with this article and the rules

1 promulgated under this article, the department shall issue a  
2 license OR CERTIFICATE OF REGISTRATION.

3 (2) The department may issue a nonrenewable temporary permit  
4 for not more than 6 months if additional time is needed to make a  
5 proper investigation or to permit the applicant to undertake  
6 remedial action related to operational or procedural deficiencies  
7 or items of noncompliance. A temporary permit shall not be  
8 issued to cover deficiencies in physical plant requirements.

9 (3) Except as provided in part 217, the department may issue  
10 a provisional license for not more than 3 consecutive years to an  
11 applicant who temporarily is unable to comply with the rules as  
12 to the physical plant owned, maintained, or operated by a health  
13 facility or agency except as otherwise provided in this article.  
14 A provisional license shall not be issued to a new health facil-  
15 ity or agency or a facility or agency whose ownership is trans-  
16 ferred after the effective date of this article, unless the  
17 facility or agency was licensed and operating under this article  
18 or a prior law for not less than 5 years. Provisional licensure  
19 under acts repealed by this code shall be counted against the  
20 3-year maximum for licensure.

21 (4) The department, in order to protect the people of this  
22 state, shall provide a procedure for the orderly closing of a  
23 LICENSED facility if it is unable to maintain its license under  
24 this section.

25 (5) Except as provided in part 217, the department, upon  
26 finding that a LICENSED health facility or agency is not  
27 operating in accord with the requirements of its license, may:

1 (a) Issue an order directing the licensee to:  
2 (i) Discontinue admissions.  
3 (ii) Transfer selected patients out of the facility.  
4 (iii) Reduce its licensed capacity.  
5 (iv) Comply with specific requirements for licensure or cer-  
6 tification as appropriate.

7 (b) Through the office of the attorney general, initiate  
8 misdemeanor proceedings against the licensee as provided in sec-  
9 tion 20199(1).

10 (6) An order issued under subsection (5) shall be governed  
11 by the notice and hearing requirements of section 20168(1) and  
12 the status requirements of section 20168(2).

13 Sec. 20164. (1) A license, CERTIFICATE OF REGISTRATION,  
14 certification, provisional license, or limited license is valid  
15 for not more than 1 year after the date of issuance, except as  
16 provided in sections ~~20729,~~ 20511, 20729, 21211, or part 210.  
17 A license for a facility licensed under part 215 shall be valid  
18 for 2 years, except that provisional and limited licenses may be  
19 valid for 1 year.

20 (2) A license, CERTIFICATE OF REGISTRATION, certification,  
21 or certificate of need is not transferable and shall state the  
22 persons, buildings, and properties to which it applies.

23 Applications for licensure or certification because of transfer  
24 of ownership or essential ownership interest shall not be acted  
25 upon until satisfactory evidence is provided of compliance with  
26 part 222.



1 (3) If ownership is not voluntarily transferred, the  
2 department shall be notified immediately and the new owner shall  
3 apply for a license and certification OR FOR A CERTIFICATE OF  
4 REGISTRATION not later than 30 days after the transfer.

5 Sec. 20165. (1) After notice of intent to an applicant,  
6 ~~or~~ licensee, OR REGISTRANT to deny, limit, suspend, or revoke a  
7 license, CERTIFICATE OF REGISTRATION, or certification and an  
8 opportunity for a hearing, the department may deny, limit, sus-  
9 pend, or revoke the license, CERTIFICATE OF REGISTRATION, or cer-  
10 tification if any of the following ~~exists~~ EXIST:

11 (a) Fraud or deceit in obtaining or attempting to obtain a  
12 license, CERTIFICATE OF REGISTRATION, or certification or in  
13 operation of the licensed OR REGISTERED health facility or  
14 agency.

15 (b) A violation of this article or the rules promulgated  
16 under this article.

17 (c) False or misleading advertising.

18 (d) Negligence or failure to exercise due care, including  
19 negligent supervision of employees and subordinates,

20 (e) Permitting a license, CERTIFICATE OF REGISTRATION, or  
21 certificate to be used by an unauthorized health facility or  
22 agency.

23 (f) Evidence of abuse regarding patient health, welfare, or  
24 safety or a denial of rights.

25 (g) Failure to comply with section 10102a(7).

1 (h) Failure to comply with part 222 or a term, condition, or  
2 stipulation of a certificate of need issued under part 222, or  
3 both.

4 (2) An application for a license, CERTIFICATE OF  
5 REGISTRATION, or certification may be denied on a finding of any  
6 condition or practice which would constitute a violation of this  
7 article if the applicant were a licensee OR REGISTRANT.

8 Sec. 20166. (1) Notice of intent to deny, limit, suspend,  
9 or revoke a license, CERTIFICATE OF REGISTRATION, or certifica-  
10 tion shall be given by certified mail or personal service, shall  
11 set forth the particular reasons for the proposed action, and  
12 shall fix a date, not less than 30 days after the date of serv-  
13 ice, on which the applicant, ~~or~~ licensee, OR REGISTRANT shall  
14 be given the opportunity for a hearing before the director or the  
15 director's authorized representative. The hearing shall be con-  
16 ducted in accordance with the administrative procedures act of  
17 1969 and rules promulgated by the department. A full and com-  
18 plete record shall be kept of the proceeding and shall be tran-  
19 scribed when requested by an interested party, who shall pay the  
20 cost of preparing the transcript.

21 (2) On the basis of a hearing or on the default of the  
22 applicant, ~~or~~ licensee, OR REGISTRANT, the department may  
23 issue, deny, limit, suspend, or revoke a license, CERTIFICATE OF  
24 REGISTRATION, or certification. A copy of the determination  
25 shall be sent by certified mail or served personally upon the  
26 applicant, ~~or~~ licensee, OR REGISTRANT. The determination  
27 becomes final 30 days after it is mailed or served, unless the

1 applicant, ~~or~~ licensee, OR REGISTRANT within the 30 days  
2 appeals the decision to the circuit court in the county of juris-  
3 diction or to the Ingham county circuit court.

4 (3) The department may establish procedures, hold hearings,  
5 administer oaths, issue subpoenas, or order testimony to be taken  
6 at a hearing or by deposition in a proceeding pending at any  
7 stage of the proceeding. A person may be compelled to appear and  
8 testify and to produce books, papers, or documents in a  
9 proceeding.

10 (4) In case of disobedience of a subpoena, a party to a  
11 hearing may invoke the aid of the circuit court of the jurisdic-  
12 tion in which the hearing is held to require the attendance and  
13 testimony of witnesses. The circuit court may issue an order  
14 requiring an individual to appear and give testimony. Failure to  
15 obey the order of the circuit court may be punished by the court  
16 as a contempt.

17 (5) The department shall not deny, limit, suspend, or revoke  
18 a license on the basis of an applicant's or licensee's failure to  
19 show a need for a health facility or agency unless the health  
20 facility or agency has not obtained a certificate of need  
21 required by part 222.

22 Sec. 20168. (1) Upon a finding that a deficiency or viola-  
23 tion of this article or the rules promulgated under this article  
24 seriously affects the health, safety, and welfare of individuals  
25 receiving care ~~of~~ OR services in or from a licensed OR  
26 REGISTERED health facility or agency, the department may issue an  
27 emergency order limiting, suspending, or revoking the license OR

1 REGISTRATION of the health facility or agency. If the department  
2 ~~of public health~~ issues an emergency order affecting the  
3 license of a nursing home, the department ~~of public health~~ may  
4 request the department of social services to limit reimbursements  
5 or payments authorized under section 21718. The department shall  
6 provide an opportunity for a hearing within 5 working days after  
7 issuance of the order.

8 (2) An order shall incorporate the department's findings.  
9 The conduct of a hearing under this section shall not suspend the  
10 department's order.

11 Sec. 20169. (1) A health facility or agency licensed OR  
12 REGISTERED under this article that obtains from a test subject a  
13 test result that indicates that the test subject is HIV infected  
14 shall comply with the reporting requirements of section 5114.

15 (2) As used in this section:

16 (a) "HIV" means human immunodeficiency virus.

17 (b) "HIV infected" means that term as defined in  
18 section 5101.

19 Sec. 20175. (1) A health facility or agency shall keep and  
20 maintain a record for each patient including a full and complete  
21 record of tests and examinations performed, observations made,  
22 treatments provided, and in the case of a hospital, the purpose  
23 of hospitalization. In addition to the sanctions set forth in  
24 section 20165, a hospital which fails to comply with this subsec-  
25 tion shall be subject to a civil fine of \$10,000.00.

26 (2) A hospital shall take precautions to assure that the  
27 records required by subsection (1) are not wrongfully altered or

1 destroyed. A hospital which fails to comply with this subsection  
2 shall be subject to a civil fine of \$10,000.00.

3 (3) Unless otherwise provided by law, the licensing,  
4 REGISTRATION, and certification records required by this article  
5 are public records.

6 (4) Departmental officers and employees shall respect the  
7 confidentiality of patient clinical records and shall not divulge  
8 or disclose the contents of records in a manner which identifies  
9 an individual except on court order.

10 (5) A health facility or agency with a medical staff shall  
11 report to the appropriate licensing board and to the department  
12 not more than 30 days after any disciplinary action has been  
13 taken against a member of the medical staff, and the relevant  
14 circumstances, for any of the grounds set forth in section  
15 16221.

16 (6) The records, data, and knowledge collected for or by  
17 individuals or committees assigned a professional review function  
18 in a health facility or agency are confidential, shall be used  
19 only for the purposes provided in this article, are not public  
20 records, and are not subject to court subpoena.

21 Sec. 20199. (1) Except as provided in subsection (2) or  
22 section 20142 OR 21213, a person who violates this article or a  
23 rule promulgated or an order issued under this article is guilty  
24 of a misdemeanor, punishable by fine of not more than \$1,000.00  
25 for each day the violation continues or, in case of a violation  
26 of sections 20551 to 20554, a fine of not more than \$1,000.00 for  
27 each occurrence.

1 (2) A person who violates sections 20181 to 20184 is guilty  
2 of a misdemeanor, punishable by imprisonment for not more than 6  
3 months, or a fine of not more than \$2,000.00, or both.

4 PART 212. HOME HEALTH AGENCIES

5 SEC. 21201. AS USED IN THIS PART:

6 (A) "HOME HEALTH AGENCY" MEANS A PERSON THAT PROVIDES HOME  
7 HEALTH SERVICES TO AN INDIVIDUAL IN THE INDIVIDUAL'S PLACE OF  
8 RESIDENCE OTHER THAN IN A HOSPITAL, NURSING HOME, OR COUNTY MEDI-  
9 CAL CARE FACILITY.

10 (B) "HOME HEALTH SERVICES" MEANS HEALTH SERVICES THAT CAN BE  
11 SAFELY AND EFFECTIVELY PROVIDED IN AN INDIVIDUAL'S PLACE OF  
12 RESIDENCE. HOME HEALTH SERVICES INCLUDES, BUT IS NOT LIMITED TO,  
13 1 OR MORE OF THE FOLLOWING: NURSING SERVICES BY A REGISTERED  
14 NURSE, NURSING SERVICES BY A PERSON OTHER THAN A REGISTERED  
15 NURSE, THERAPEUTIC SERVICES, PHYSICAL THERAPY, OCCUPATIONAL THER-  
16 APY, SPEECH THERAPY, HOME HEALTH AIDE SERVICES, HOMEMAKER SERV-  
17 ICES, MEDICAL SOCIAL SERVICES, THE PROVISION OF MEDICALLY NECES-  
18 SARY EQUIPMENT AND SUPPLIES, PERSONAL CARE SERVICES, AND OTHER  
19 HEALTH RELATED SERVICES. HOME HEALTH SERVICES DOES NOT INCLUDE  
20 SERVICES BY AN INDEPENDENT CONTRACTOR WHO RENDERS SERVICES  
21 DIRECTLY TO INDIVIDUALS IN THEIR HOMES AND WHO HAS NO EMPLOYMENT  
22 RELATIONSHIP WITH A HOME HEALTH AGENCY OR SERVICES BY A PERSON  
23 THAT IN GOOD FAITH MINISTERS TO THE ILL OR SUFFERING BY SPIRITUAL  
24 MEANS ALONE, THROUGH PRAYER, IN THE EXERCISE OF A RELIGIOUS FREE-  
25 DOM, AND THAT DOES NOT HOLD ITSELF OUT TO BE A HOME HEALTH  
26 AGENCY.

1        SEC. 21203. (1) A HOME HEALTH AGENCY SHALL NOT PROVIDE HOME  
2 HEALTH SERVICES UNLESS IT IS ISSUED A CERTIFICATE OF REGISTRATION  
3 UNDER THIS PART.

4        (2) A HOME HEALTH AGENCY SHALL NOT USE THE TERM "HOME HEALTH  
5 AGENCY", "HOME CARE AGENCY", "HOME SERVICES AGENCY", "PERSONAL  
6 CARE SERVICES AGENCY", OR A SIMILAR TERM OR ABBREVIATION TO  
7 DESCRIBE OR REFER TO ITSELF UNLESS THE DEPARTMENT HAS ISSUED A  
8 CERTIFICATE OF REGISTRATION TO THE HOME HEALTH AGENCY.

9        (3) A PERSON SHALL NOT ESTABLISH OR MAINTAIN A HOME HEALTH  
10 AGENCY UNLESS THE DEPARTMENT HAS ISSUED A CERTIFICATE OF REGIS-  
11 TRATION TO THE HOME HEALTH AGENCY.

12       SEC. 21205. THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF  
13 REGISTRATION OR A RENEWAL CERTIFICATE OF REGISTRATION TO A HOME  
14 HEALTH AGENCY IF THE HOME HEALTH AGENCY SUBMITS A COMPLETED  
15 APPLICATION UNDER SECTION 21207(1), PAYS THE FEE REQUIRED UNDER  
16 SECTION 21207(2), AND CERTIFIES TO THE DEPARTMENT THAT THE HOME  
17 HEALTH AGENCY IS IN COMPLIANCE WITH AND WILL CONTINUE TO COMPLY  
18 WITH THIS PART AND RULES PROMULGATED UNDER THIS PART.

19       SEC. 21207. (1) AN APPLICANT FOR A CERTIFICATE OF REGISTRA-  
20 TION OR FOR A RENEWAL CERTIFICATE OF REGISTRATION SHALL APPLY ON  
21 FORMS PROVIDED BY THE DEPARTMENT. THE FORMS SHALL INCLUDE ALL OF  
22 THE FOLLOWING INFORMATION:

23       (A) THE NAME, ADDRESS, AND LOCATION OF THE HOME HEALTH  
24 AGENCY.

25       (B) THE ORGANIZATION AND GOVERNING STRUCTURE OF THE HOME  
26 HEALTH AGENCY.

1 (C) THE NAME AND ADDRESS OF THE HOME HEALTH AGENCY  
2 ADMINISTRATOR AND OFFICERS.

3 (D) THE NAME AND ADDRESS OF EACH PERSON WHO HAS A 10% OR  
4 GREATER OWNERSHIP INTEREST IN THE HOME HEALTH AGENCY.

5 (E) THE TOTAL NUMBER OF EMPLOYEES OF THE HOME HEALTH  
6 AGENCY.

7 (F) THE CATEGORY OF SERVICES OFFERED BY THE HOME HEALTH  
8 AGENCY.

9 (G) A DESCRIPTION OF THE SERVICE AREA OF THE HOME HEALTH  
10 AGENCY.

11 (H) FEE SCHEDULES AND A COPY OF THE FEE AGREEMENT POLICY.

12 (I) A BRIEF DESCRIPTION OF THE COMPLAINT PROCEDURES PROVIDED  
13 BY THE HOME HEALTH AGENCY FOR PATIENTS OR EMPLOYEES WITH A COM-  
14 PLAINTE AGAINST THE HOME HEALTH AGENCY.

15 (J) A DESCRIPTION OF THE HOME HEALTH AGENCY'S INSURANCE  
16 COVERAGE.

17 (K) OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

18 (2) AN APPLICANT FOR A CERTIFICATE OF REGISTRATION OR FOR A  
19 RENEWAL OF A CERTIFICATE OF REGISTRATION SHALL PAY A \$100.00  
20 APPLICATION OR RENEWAL FEE TO THE DEPARTMENT AT THE TIME OF  
21 APPLICATION.

22 SEC. 21209. A HOME HEALTH AGENCY SHALL ESTABLISH AND MAIN-  
23 TAIN REASONABLE PROCEDURES FOR RECEIVING, PROCESSING, AND RESOLV-  
24 ING PATIENT AND EMPLOYEE COMPLAINTS AS TO THE OPERATION OF THE  
25 HOME HEALTH AGENCY.



1        SEC. 21211. (1) A CERTIFICATE OF REGISTRATION FOR A HOME  
2 HEALTH AGENCY IS VALID FOR 1 YEAR UNLESS SUSPENDED OR REVOKED  
3 PURSUANT TO SECTION 20165.

4        (2) THIS SECTION DOES NOT LIMIT THE RIGHT OR DUTY OF THE  
5 DEPARTMENT TO ASSESS A REGISTRANT'S CONTINUED COMPLIANCE WITH  
6 THIS PART PERIODICALLY, RANDOMLY, OR AT THE TIME OF RENEWAL.

7        SEC. 21213. AFTER DECEMBER 31, 1990, A PERSON WHO VIOLATES  
8 SECTION 21203 IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY A FINE OF  
9 NOT MORE THAN \$5,000.00.

10       SEC. 21215. THE DEPARTMENT SHALL COLLECT DATA ON HOME  
11 HEALTH AGENCIES FROM THE INFORMATION SUBMITTED ON CERTIFICATE OF  
12 REGISTRATION APPLICATION FORMS, ANALYZE THE DATA, AND REPORT TO  
13 THE HOUSE AND SENATE APPROPRIATIONS COMMITTEES NOT MORE THAN 6  
14 MONTHS AFTER THE EFFECTIVE DATE OF THIS PART.

15       SEC. 21217. THIS PART IS REPEALED EFFECTIVE JANUARY 1,  
16 1993.