

# HOUSE BILL No. 5778

May 16, 1990, Introduced by Rep. Niederstadt and referred to the Committee on Towns and Counties.

A bill to amend section 492a of Act No. 328 of the Public Acts of 1931, entitled  
"The Michigan penal code,"  
as added by Act No. 184 of the Public Acts of 1986, being section 750.492a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 492a of Act No. 328 of the Public Acts  
2 of 1931, as added by Act No. 184 of the Public Acts of 1986,  
3 being section 750.492a of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 492a. (1) Except as otherwise provided in  
6 subsection (3), a health care provider or other person, knowing  
7 that the information is misleading or inaccurate, shall not  
8 intentionally, willfully, or recklessly place or direct another  
9 to place in a patient's medical record or chart misleading or

1 inaccurate information regarding the diagnosis, treatment, or  
2 cause of a patient's condition. A violation of this subsection  
3 is punishable as follows:

4 (a) A health care provider who intentionally or willfully  
5 violates this subsection is guilty of a felony.

6 (b) A health care provider who recklessly violates this sub-  
7 section is guilty of a misdemeanor, punishable by imprisonment  
8 for not more than 1 year, or a fine of not more than \$1,000.00,  
9 or both.

10 (c) A person other than a health care provider who inten-  
11 tionally or willfully violates this subsection is guilty of a  
12 misdemeanor, punishable by imprisonment for not more than 1 year,  
13 or a fine of not more than \$1,000.00, or both.

14 (d) A person other than a health care provider who reck-  
15 lessly violates this subsection is guilty of a misdemeanor.

16 (2) Except as otherwise provided in subsection (3), a health  
17 care provider or other person shall not intentionally or will-  
18 fully alter or destroy or direct another to alter or destroy a  
19 patient's medical records or charts for the purpose of concealing  
20 his or her responsibility for the patient's injury, sickness, or  
21 death. A health care provider who violates this subsection is  
22 guilty of a felony. A person other than a health care provider  
23 who violates this subsection is guilty of a misdemeanor punish-  
24 able by imprisonment for not more than 1 year, or a fine of not  
25 more than \$1,000.00, or both.

26 (3) Subsections (1) and (2) ~~shall~~ DO not apply to either  
27 of the following:

1 (a) Destruction of a patient's original medical record or  
2 chart if all of the information contained in or on the medical  
3 record or chart is otherwise retained by means of ~~photography,~~  
4 mechanical or electronic recording, chemical reproduction, or  
5 other equivalent techniques ~~which~~ THAT accurately reproduce all  
6 of the information contained in or on the original OR BY REPRO-  
7 Duction PURSUANT TO THE RECORDS MEDIA ACT THAT ACCURATELY REPRO-  
8 DUCES ALL OF THE INFORMATION CONTAINED IN OR ON THE ORIGINAL.

9 (b) Supplementation of information or correction of an error  
10 in a patient's medical record or chart in a manner ~~which~~ THAT  
11 reasonably discloses that the supplementation or correction was  
12 performed and ~~which~~ THAT does not conceal or alter prior  
13 entries.

14 (4) This section does not create or provide a basis for a  
15 civil cause of action for damages.

16 Section 2. This amendatory act shall not take effect unless  
17 Senate Bill No. \_\_\_\_\_ (03301'89) or House Bill No. 5013 of the  
18 85th Legislature is enacted into law.