

# SENATE BILL No. 465

May 5, 2005, Introduced by Senators JACOBS, BASHAM, SWITALSKI, CLARK-COLEMAN, BARCIA, OLSHOVE, HAMMERSTROM, LELAND, CHERRY, THOMAS, PATTERSON, GILBERT, CROPSEY, PRUSI, BRATER, SCHAUER and STAMAS and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16177 and 20175 (MCL 333.16177 and 333.20175), section 16177 as amended by 1998 PA 332 and section 20175 as amended by 2000 PA 319, and by adding sections 16213 and 20175a.

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

1       Sec. 16177. (1) An individual applying for licensure or  
2 registration under this article shall do so on a form provided by  
3 the department. The department shall require each applicant to  
4 include on the application form his or her social security number.  
5 The department shall not display an applicant's social security  
6 number on his or her license or registration. If the facts set

1 forth in the application meet the requirements of the board or task  
2 force and this article for licensure or registration, the board or  
3 task force shall grant a license or registration to the applicant.  
4 A board or task force may require the applicant to take an  
5 examination to determine if the applicant meets the qualifications  
6 for licensure or registration. The examination shall include  
7 subjects determined by the board or task force to be essential to  
8 the safe and competent practice of the health profession, the  
9 appropriate use of a title, or both. Passing scores or the  
10 procedure used to determine passing scores shall be established  
11 before an examination is administered.

12 (2) In addition to the information required under subsection  
13 (1), an applicant for licensure or registration or a licensee or  
14 registrant applying for renewal shall include on a form provided by  
15 the department all of the following information, if applicable:

16 (a) A felony conviction.

17 (b) A misdemeanor conviction punishable by imprisonment for a  
18 maximum term of 2 years or a misdemeanor conviction involving the  
19 illegal delivery, possession, or use of alcohol or a controlled  
20 substance.

21 (c) Sanctions imposed against the applicant by a similar  
22 licensure, registration, certification, or disciplinary board of  
23 another state or country.

24 (3) In addition to the information required under subsections  
25 (1) and (2), a physician, osteopathic physician, dentist, or  
26 podiatrist applying for licensure or renewal under this article  
27 shall report to the department on a form provided by the department

1 the name of each hospital with which he or she is employed or under  
2 contract, and each hospital in which he or she is allowed to  
3 practice.

4 (4) IN ADDITION TO THE INFORMATION REQUIRED UNDER SUBSECTIONS  
5 (1), (2), AND (3), AN APPLICANT FOR LICENSURE OR REGISTRATION AND,  
6 BEGINNING THE LICENSE RENEWAL CYCLE AFTER THE EFFECTIVE DATE OF THE  
7 AMENDATORY ACT THAT ADDED SECTION 16213, A LICENSEE OR REGISTRANT  
8 APPLYING FOR RENEWAL SHALL PROVIDE THE DEPARTMENT ON A FORM  
9 PROVIDED BY THE DEPARTMENT THE NAME OF THE HEALTH CARE PROVIDER,  
10 HEALTH FACILITY OR AGENCY, MEDICAL RECORDS COMPANY, OR OTHER PERSON  
11 WHO IS RESPONSIBLE FOR PROTECTING, MAINTAINING, AND PROVIDING  
12 ACCESS TO HIS OR HER MEDICAL RECORDS IN ACCORDANCE WITH SECTION  
13 16213.

14 (5) ~~—(4)—~~ A requirement under this section to include a social  
15 security number on an application does not apply to an applicant  
16 who demonstrates he or she is exempt under law from obtaining a  
17 social security number or to an applicant who for religious  
18 convictions is exempt under law from disclosure of his or her  
19 social security number under these circumstances. The department  
20 shall inform the applicant of this possible exemption.

21 SEC. 16213. (1) AN INDIVIDUAL REGISTERED OR LICENSED UNDER  
22 THIS ARTICLE SHALL KEEP AND MAINTAIN A RECORD FOR EACH PATIENT FOR  
23 WHOM HE OR SHE HAS PROVIDED PROFESSIONAL SERVICES, INCLUDING A FULL  
24 AND COMPLETE RECORD OF TESTS AND EXAMINATIONS PERFORMED,  
25 OBSERVATIONS MADE, AND TREATMENTS PROVIDED. THE RECORDS SHALL BE  
26 KEPT AND MAINTAINED FOR A MINIMUM OF 10 YEARS FROM THE LAST DATE OF  
27 SERVICE PROVIDED TO THE PATIENT OR LONGER IF OTHERWISE REQUIRED

1 UNDER ANY OTHER FEDERAL OR STATE LAW OR REGULATION. THE RECORDS  
2 SHALL BE MAINTAINED IN SUCH A MANNER AS TO PROTECT THEIR INTEGRITY,  
3 TO ENSURE THEIR CONFIDENTIALITY AND PROPER USE, AND TO ENSURE THEIR  
4 ACCESSIBILITY AND AVAILABILITY TO EACH PATIENT OR HIS OR HER  
5 AUTHORIZED REPRESENTATIVE AS REQUIRED BY LAW.

6 (2) IF A LICENSEE OR REGISTRANT IS UNABLE TO COMPLY WITH THIS  
7 SECTION, THE LICENSEE OR REGISTRANT SHALL EMPLOY OR CONTRACT WITH  
8 ANOTHER HEALTH CARE PROVIDER, A HEALTH FACILITY OR AGENCY, OR A  
9 MEDICAL RECORDS COMPANY TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO  
10 THOSE RECORDS REQUIRED UNDER SUBSECTION (1).

11 (3) IF A LICENSEE OR REGISTRANT SELLS OR CLOSES HIS OR HER  
12 PRACTICE, RETIRES FROM PRACTICE, OR OTHERWISE CEASES TO PRACTICE  
13 UNDER THIS ARTICLE, THE LICENSEE OR REGISTRANT OR THE PERSONAL  
14 REPRESENTATIVE OF THE LICENSEE OR REGISTRANT, IF THE LICENSEE OR  
15 REGISTRANT IS DECEASED, SHALL NOT ABANDON THE RECORDS REQUIRED  
16 UNDER THIS SECTION AND SHALL DO BOTH OF THE FOLLOWING:

17 (A) SEND A WRITTEN NOTICE TO THE LAST KNOWN ADDRESS OF EACH  
18 PATIENT FOR WHOM HE OR SHE HAS PROVIDED PROFESSIONAL SERVICES. THE  
19 NOTICE SHALL PROVIDE THE PATIENT WITH THE OPPORTUNITY TO DESIGNATE  
20 WHERE HE OR SHE WOULD LIKE HIS OR HER RECORDS TRANSFERRED AND SHALL  
21 SPECIFY WHO WILL RETAIN CUSTODY OF HIS OR HER RECORDS AND HOW HE OR  
22 SHE MAY REQUEST ACCESS TO THE SAME IF HE OR SHE DOES NOT DESIGNATE  
23 OTHERWISE.

24 (B) TRANSFER THE RECORDS REQUIRED UNDER SUBSECTION (1) TO ANY  
25 OF THE FOLLOWING:

26 (i) A SUCCESSOR LICENSEE OR REGISTRANT.

27 (ii) IF REQUESTED BY THE PATIENT OR HIS OR HER AUTHORIZED

1 REPRESENTATIVE, A SPECIFIC HEALTH FACILITY OR AGENCY OR OTHER  
2 HEALTH CARE PROVIDER LICENSED OR REGISTERED UNDER ARTICLE 15.

3 (iii) A HEALTH CARE PROVIDER, A HEALTH FACILITY OR AGENCY, OR A  
4 MEDICAL RECORDS COMPANY WITH WHICH THE LICENSEE OR REGISTRANT HAD  
5 CONTRACTED TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO THOSE  
6 RECORDS REQUIRED UNDER SUBSECTION (1).

7 (4) EXCEPT AS OTHERWISE PROVIDED UNDER FEDERAL OR STATE LAWS  
8 AND REGULATIONS, RECORDS REQUIRED TO BE MAINTAINED UNDER SUBSECTION  
9 (1) MAY BE DESTROYED OR OTHERWISE DISPOSED OF AFTER BEING  
10 MAINTAINED FOR 10 YEARS. IF RECORDS MAINTAINED IN ACCORDANCE WITH  
11 THIS SECTION ARE SUBSEQUENTLY DESTROYED OR OTHERWISE DISPOSED OF,  
12 THOSE RECORDS SHALL BE SHREDED, INCINERATED, ELECTRONICALLY  
13 DELETED, OR OTHERWISE DISPOSED OF IN A MANNER THAT ENSURES  
14 CONTINUED CONFIDENTIALITY OF THE PATIENT'S HEALTH CARE INFORMATION  
15 AND ANY OTHER PERSONAL INFORMATION RELATING TO THE PATIENT.  
16 IF RECORDS ARE DESTROYED OR OTHERWISE DISPOSED OF AS PROVIDED UNDER  
17 THIS SUBSECTION, THE DEPARTMENT MAY TAKE ACTION INCLUDING, BUT NOT  
18 LIMITED TO, CONTRACTING FOR OR MAKING OTHER ARRANGEMENT TO ENSURE  
19 THAT THOSE RECORDS AND ANY OTHER CONFIDENTIAL IDENTIFYING  
20 INFORMATION RELATED TO THE PATIENT ARE PROPERLY DESTROYED OR  
21 DISPOSED OF TO PROTECT THE CONFIDENTIALITY OF PATIENT'S HEALTH CARE  
22 INFORMATION AND ANY OTHER PERSONAL INFORMATION RELATING TO THE  
23 PATIENT. THE DEPARTMENT MAY ASSESS THE LICENSEE OR REGISTRANT WITH  
24 THE COSTS INCURRED BY THE DEPARTMENT TO ENFORCE THIS SUBSECTION.

25 (5) A PERSON WHO FAILS TO COMPLY WITH THIS SECTION IS SUBJECT  
26 TO AN ADMINISTRATIVE FINE OF \$10,000.00.

27 (6) AS USED IN THIS SECTION:

1           (A) "MEDICAL RECORDS COMPANY" MEANS A PERSON WHO CONTRACTS FOR  
2 OR AGREES TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO MEDICAL  
3 RECORDS FOR A HEALTH CARE PROVIDER OR HEALTH FACILITY OR AGENCY IN  
4 ACCORDANCE WITH THIS SECTION.

5           (B) "PATIENT" MEANS AN INDIVIDUAL WHO RECEIVES OR HAS RECEIVED  
6 HEALTH CARE FROM A HEALTH CARE PROVIDER OR HEALTH FACILITY OR  
7 AGENCY. PATIENT INCLUDES A GUARDIAN, IF APPOINTED, AND A PARENT,  
8 GUARDIAN, OR PERSON ACTING IN LOCO PARENTIS, IF THE INDIVIDUAL IS A  
9 MINOR, UNLESS THE MINOR LAWFULLY OBTAINED HEALTH CARE WITHOUT THE  
10 CONSENT OR NOTIFICATION OF A PARENT, GUARDIAN, OR OTHER PERSON  
11 ACTING IN LOCO PARENTIS, IN WHICH CASE THE MINOR HAS THE EXCLUSIVE  
12 RIGHT TO EXERCISE THE RIGHTS OF A PATIENT UNDER THIS SECTION WITH  
13 RESPECT TO HIS OR HER MEDICAL RECORDS RELATING TO THAT CARE.

14           Sec. 20175. (1) A health facility or agency shall keep and  
15 maintain a record for each patient, including a full and complete  
16 record of tests and examinations performed, observations made,  
17 treatments provided, and in the case of a hospital, the purpose of  
18 hospitalization. THE RECORDS SHALL BE KEPT AND MAINTAINED FOR A  
19 MINIMUM OF 10 YEARS FROM THE LAST DATE OF SERVICE PROVIDED TO THE  
20 PATIENT OR LONGER IF OTHERWISE REQUIRED UNDER ANY OTHER FEDERAL OR  
21 STATE LAW OR REGULATION. A HEALTH FACILITY OR AGENCY SHALL MAINTAIN  
22 THE RECORDS IN SUCH A MANNER AS TO PROTECT THEIR INTEGRITY, TO  
23 ENSURE THEIR CONFIDENTIALITY AND PROPER USE, AND TO ENSURE THEIR  
24 ACCESSIBILITY AND AVAILABILITY TO EACH PATIENT OR HIS OR HER  
25 AUTHORIZED REPRESENTATIVE AS REQUIRED BY LAW. EXCEPT AS OTHERWISE  
26 PROVIDED UNDER FEDERAL OR STATE LAWS AND REGULATIONS, RECORDS  
27 REQUIRED TO BE MAINTAINED UNDER THIS SUBSECTION MAY BE DESTROYED OR

1 OTHERWISE DISPOSED OF AFTER BEING MAINTAINED FOR 10 YEARS. IF  
2 RECORDS MAINTAINED IN ACCORDANCE WITH THIS SECTION ARE SUBSEQUENTLY  
3 DESTROYED OR OTHERWISE DISPOSED OF, THOSE RECORDS SHALL BE  
4 SHREDDED, INCINERATED, ELECTRONICALLY DELETED, OR OTHERWISE  
5 DISPOSED OF IN A MANNER THAT ENSURES CONTINUED CONFIDENTIALITY OF  
6 THE PATIENT'S HEALTH CARE INFORMATION AND ANY OTHER PERSONAL  
7 INFORMATION RELATING TO THE PATIENT. IF RECORDS ARE DESTROYED OR  
8 OTHERWISE DISPOSED OF AS PROVIDED UNDER THIS SUBSECTION, THE  
9 DEPARTMENT MAY TAKE ACTION INCLUDING, BUT NOT LIMITED TO,  
10 CONTRACTING FOR OR MAKING OTHER ARRANGEMENTS TO ENSURE THAT THOSE  
11 RECORDS AND ANY OTHER CONFIDENTIAL IDENTIFYING INFORMATION RELATED  
12 TO THE PATIENT ARE PROPERLY DESTROYED OR DISPOSED OF TO PROTECT THE  
13 CONFIDENTIALITY OF PATIENT'S HEALTH CARE INFORMATION AND ANY OTHER  
14 PERSONAL INFORMATION RELATING TO THE PATIENT. THE DEPARTMENT MAY  
15 ASSESS THE HEALTH FACILITY OR AGENCY WITH THE COSTS INCURRED BY THE  
16 DEPARTMENT TO ENFORCE THIS SUBSECTION. In addition to the sanctions  
17 set forth in section 20165, a hospital that fails to comply with  
18 this subsection is subject to an administrative fine of \$10,000.00.

19 (2) A hospital shall take precautions to assure that the  
20 records required by subsection (1) are not wrongfully altered or  
21 destroyed. A hospital that fails to comply with this subsection is  
22 subject to an administrative fine of \$10,000.00.

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

25 (4) Departmental officers and employees shall respect the  
26 confidentiality of patient clinical records and shall not divulge  
27 or disclose the contents of records in a manner that identifies an

1 individual except pursuant to court order **OR AS OTHERWISE**  
2 **AUTHORIZED BY LAW.**

3 (5) A health facility or agency that employs, contracts with,  
4 or grants privileges to a health professional licensed or  
5 registered under article 15 shall report the following to the  
6 department ~~of consumer and industry services~~ not more than 30  
7 days after it occurs:

8 (a) Disciplinary action taken by the health facility or agency  
9 against a health professional licensed or registered under article  
10 15 based on the licensee's or registrant's professional competence,  
11 disciplinary action that results in a change of employment status,  
12 or disciplinary action based on conduct that adversely affects the  
13 licensee's or registrant's clinical privileges for a period of more  
14 than 15 days. As used in this subdivision, "adversely affects"  
15 means the reduction, restriction, suspension, revocation, denial,  
16 or failure to renew the clinical privileges of a licensee or  
17 registrant by a health facility or agency.

18 (b) Restriction or acceptance of the surrender of the clinical  
19 privileges of a licensee or registrant under either of the  
20 following circumstances:

21 (i) The licensee or registrant is under investigation by the  
22 health facility or agency.

23 (ii) There is an agreement in which the health facility or  
24 agency agrees not to conduct an investigation into the licensee's  
25 or registrant's alleged professional incompetence or improper  
26 professional conduct.

27 (c) A case in which a health professional resigns or



1 terminates a contract or whose contract is not renewed instead of  
2 the health facility taking disciplinary action against the health  
3 professional.

4 (6) Upon request by another health facility or agency seeking  
5 a reference for purposes of changing or granting staff privileges,  
6 credentials, or employment, a health facility or agency that  
7 employs, contracts with, or grants privileges to health  
8 professionals licensed or registered under article 15 shall notify  
9 the requesting health facility or agency of any disciplinary or  
10 other action reportable under subsection (5) that it has taken  
11 against a health professional licensed or registered under article  
12 15 and employed by, under contract to, or granted privileges by the  
13 health facility or agency.

14 (7) For the purpose of reporting disciplinary actions under  
15 this section, a health facility or agency shall include only the  
16 following in the information provided:

17 (a) The name of the licensee or registrant against whom  
18 disciplinary action has been taken.

19 (b) A description of the disciplinary action taken.

20 (c) The specific grounds for the disciplinary action taken.

21 (d) The date of the incident that is the basis for the  
22 disciplinary action.

23 (8) The records, data, and knowledge collected for or by  
24 individuals or committees assigned a professional review function  
25 in a health facility or agency, or an institution of higher  
26 education in this state that has colleges of osteopathic and human  
27 medicine, are confidential, shall be used only for the purposes

1 provided in this article, are not public records, and are not  
2 subject to court subpoena.

3 SEC. 20175A. (1) IF A HEALTH FACILITY OR AGENCY IS UNABLE TO  
4 COMPLY WITH SECTION 20175, THE HEALTH FACILITY OR AGENCY SHALL  
5 EMPLOY OR CONTRACT WITH ANOTHER HEALTH FACILITY OR AGENCY OR A  
6 MEDICAL RECORDS COMPANY TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO  
7 THOSE RECORDS REQUIRED UNDER SECTION 20175(1).

8 (2) IF A HEALTH FACILITY OR AGENCY CLOSES OR OTHERWISE CEASES  
9 OPERATION, THE HEALTH FACILITY OR AGENCY SHALL NOT ABANDON THE  
10 RECORDS REQUIRED TO BE MAINTAINED UNDER SECTION 20175(1) AND SHALL  
11 DO BOTH OF THE FOLLOWING:

12 (A) SEND A WRITTEN NOTICE TO THE LAST KNOWN ADDRESS OF EACH  
13 PATIENT FOR WHOM HE OR SHE HAS PROVIDED PROFESSIONAL SERVICES. THE  
14 NOTICE SHALL PROVIDE THE PATIENT WITH THE OPPORTUNITY TO DESIGNATE  
15 WHERE HE OR SHE WOULD LIKE HIS OR HER RECORDS TRANSFERRED AND SHALL  
16 SPECIFY WHO WILL RETAIN CUSTODY OF HIS OR HER RECORDS AND HOW HE OR  
17 SHE MAY REQUEST ACCESS TO THE SAME IF HE OR SHE DOES NOT DESIGNATE  
18 OTHERWISE.

19 (B) TRANSFER THE RECORDS REQUIRED UNDER SECTION 20175(1) TO  
20 ANY OF THE FOLLOWING:

21 (i) A SUCCESSOR HEALTH FACILITY OR AGENCY.

22 (ii) IF DESIGNATED BY THE PATIENT OR HIS OR HER AUTHORIZED  
23 REPRESENTATIVE, A SPECIFIC HEALTH FACILITY OR AGENCY OR A HEALTH  
24 CARE PROVIDER LICENSED OR REGISTERED UNDER ARTICLE 15.

25 (iii) A HEALTH FACILITY OR AGENCY OR A MEDICAL RECORDS COMPANY  
26 WITH WHICH THE HEALTH FACILITY OR AGENCY HAD CONTRACTED TO PROTECT,  
27 MAINTAIN, AND PROVIDE ACCESS TO THOSE RECORDS REQUIRED UNDER

1 SECTION 20175(1) .

2 (3) A PERSON THAT FAILS TO COMPLY WITH THIS SECTION IS SUBJECT  
3 TO AN ADMINISTRATIVE FINE OF \$10,000.00.

4 (4) AS USED IN THIS SECTION:

5 (A) "MEDICAL RECORDS COMPANY" MEANS A PERSON WHO CONTRACTS FOR  
6 OR AGREES TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO MEDICAL  
7 RECORDS FOR A HEALTH FACILITY OR AGENCY IN ACCORDANCE WITH SECTION  
8 20175.

9 (B) "PATIENT" MEANS AN INDIVIDUAL WHO RECEIVES OR HAS RECEIVED  
10 HEALTH CARE FROM A HEALTH CARE PROVIDER OR HEALTH FACILITY OR  
11 AGENCY. PATIENT INCLUDES A GUARDIAN, IF APPOINTED, AND A PARENT,  
12 GUARDIAN, OR PERSON ACTING IN LOCO PARENTIS, IF THE INDIVIDUAL IS A  
13 MINOR, UNLESS THE MINOR LAWFULLY OBTAINED HEALTH CARE WITHOUT THE  
14 CONSENT OR NOTIFICATION OF A PARENT, GUARDIAN, OR OTHER PERSON  
15 ACTING IN LOCO PARENTIS, IN WHICH CASE THE MINOR HAS THE EXCLUSIVE  
16 RIGHT TO EXERCISE THE RIGHTS OF A PATIENT UNDER THIS SECTION WITH  
17 RESPECT TO HIS OR HER MEDICAL RECORDS RELATING TO THAT CARE.