

HOUSE BILL No. 5783

April 12, 2018, Introduced by Reps. Whiteford, Theis, Hornberger, Greimel and Kesto and referred to the Committee on Law and Justice.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16213, 16299, 20175, 20175a, and 20199 (MCL 333.16213, 333.16299, 333.20175, 333.20175a, and 333.20199), sections 16213 and 20175a as added and section 20175 as amended by 2006 PA 481 and section 16299 as amended by 2012 PA 499, and by adding sections 16213a, 17023, 17523, and 20175b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16213. (1) An individual licensed under this article
2 shall keep and maintain a record for each patient for whom he or
3 she has provided medical services, including a full and complete
4 record of tests and examinations performed, observations made, and
5 treatments provided. **IF A MEDICAL SERVICE PROVIDED TO A PATIENT ON**
6 **OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**

1 SENTENCE INVOLVES THE VAGINAL OR ANAL PENETRATION OF THE PATIENT,
2 AN INDIVIDUAL LICENSED UNDER THIS ARTICLE SHALL EXPRESSLY STATE IN
3 THE PATIENT'S RECORD THAT VAGINAL OR ANAL PENETRATION WAS
4 PERFORMED.

5 (2) Unless a longer retention period is otherwise required
6 under federal or state laws or regulations or by generally accepted
7 standards of medical practice, a licensee shall keep and retain
8 each record ~~for~~ **REQUIRED UNDER SUBSECTION (1) AS FOLLOWS:**

9 (A) **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B),** FOR a
10 minimum of 7 years from the date of service to which the record
11 pertains.

12 (B) **IF THE RECORD IS FOR A MEDICAL SERVICE PERFORMED ON OR**
13 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
14 **SUBDIVISION THAT INVOLVES THE VAGINAL OR ANAL PENETRATION OF A**
15 **PATIENT, FOR A MINIMUM OF 15 YEARS FROM THE DATE OF SERVICE TO**
16 **WHICH THE RECORD PERTAINS. THIS SUBDIVISION DOES NOT APPLY TO A**
17 **RECORD FOR A MEDICAL SERVICE THAT PRIMARILY RELATES TO THE**
18 **PATIENT'S REPRODUCTIVE, GYNECOLOGICAL, OR SEXUAL HEALTH.**

19 (3) The records ~~shall~~ **REQUIRED UNDER SUBSECTION (1) MUST** be
20 maintained in such a manner as to protect their integrity, to
21 ensure their confidentiality and proper use, and to ensure their
22 accessibility and availability to each patient or his or her
23 authorized representative as required by law.

24 (4) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7), A**
25 licensee may destroy a record **REQUIRED UNDER SUBSECTION (1)** that is
26 less than 7 years old only if both of the following are satisfied:

27 (a) The licensee sends a written notice to the patient at the

1 last known address of that patient informing the patient that the
2 record is about to be destroyed, offering the patient the
3 opportunity to request a copy of that record, and requesting the
4 patient's written authorization to destroy the record.

5 (b) The licensee receives written authorization from the
6 patient or his or her authorized representative agreeing to the
7 destruction of the record.

8 (5) ~~(2)~~—If a licensee is unable to comply with this section,
9 the licensee shall employ or contract, arrange, or enter into an
10 agreement with another health care provider, a health facility or
11 agency, or a medical records company to protect, maintain, and
12 provide access to those records required under subsection (1).

13 (6) ~~(3)~~—If a licensee or registrant sells or closes his or her
14 practice, retires from practice, or otherwise ceases to practice
15 under this article, the licensee or the personal representative of
16 the licensee, if the licensee is deceased, shall not abandon the
17 records required under this section and shall send a written notice
18 to the department that specifies who will have custody of the
19 medical records and how a patient may request access to or copies
20 of his or her medical records and shall do either of the following:

21 (a) Transfer the records required under subsection (1) to any
22 of the following:

23 (i) A successor licensee.

24 (ii) If requested by the patient or his or her authorized
25 representative, to the patient or a specific health facility or
26 agency or other health care provider licensed under article 15.

27 (iii) A health care provider, a health facility or agency, or

1 a medical records company with which the licensee had contracted or
2 entered into an agreement to protect, maintain, and provide access
3 to those records required under subsection (1).

4 (b) ~~In~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7), AND IN**
5 accordance with ~~subsection (1),~~ **SUBSECTIONS (1) TO (4),** as long as
6 the licensee or the personal representative of the licensee, if the
7 licensee is deceased, sends a written notice to the last known
8 address of each patient for whom he or she has provided medical
9 services and receives written authorization from the patient or his
10 or her authorized representative, destroy the records required
11 under subsection (1). The notice shall provide the patient with 30
12 days to request a copy of his or her record or to designate where
13 he or she would like his or her medical records transferred and
14 shall request from the patient within 30 days written authorization
15 for the destruction of his or her medical records. ~~If~~ **EXCEPT AS**
16 **OTHERWISE PROVIDED IN SUBSECTION (7), IF** the patient fails to
17 request a copy or transfer of his or her medical records or to
18 provide the licensee with written authorization for the
19 destruction, then the licensee or the personal representative of
20 the licensee shall not destroy those records that are less than 7
21 years old but may destroy, in accordance with subsection ~~(4),~~ **(8),**
22 those that are 7 years old or older.

23 **(7) A LICENSEE OR THE PERSONAL REPRESENTATIVE OF A LICENSEE,**
24 **IF THE LICENSEE IS DECEASED, SHALL ONLY DESTROY A RECORD DESCRIBED**
25 **IN SUBSECTION (2) (B) IN ACCORDANCE WITH SUBSECTION (8).**

26 **(8)** ~~(4)~~ Except as otherwise provided under this section or
27 federal or state laws and regulations, records required to be

1 maintained under subsection (1), **OTHER THAN A RECORD DESCRIBED IN**
2 **SUBSECTION (2) (B)**, may be destroyed or otherwise disposed of after
3 being maintained for 7 years **AND RECORDS DESCRIBED IN SUBSECTION**
4 **(2) (B) MAY BE DESTROYED OR OTHERWISE DISPOSED OF AFTER BEING**
5 **MAINTAINED FOR 15 YEARS**. If records maintained in accordance with
6 this section are subsequently destroyed or otherwise disposed of,
7 those records ~~shall~~**MUST** be shredded, incinerated, electronically
8 deleted, or otherwise disposed of in a manner that ensures
9 continued confidentiality of the patient's health care information
10 and any other personal information relating to the patient. If
11 records are **NOT** destroyed or otherwise disposed of as provided
12 under this subsection, the department may take action including,
13 but not limited to, contracting for or making other arrangements to
14 ensure that those records and any other confidential identifying
15 information related to the patient are properly destroyed or
16 disposed of to protect the confidentiality of patient's health care
17 information and any other personal information relating to the
18 patient. Before the department takes action in accordance with this
19 subsection, the department, if able to identify the licensee
20 responsible for the improper destruction or disposal of the medical
21 records at issue, shall send a written notice to that licensee at
22 his or her last known address or place of business on file with the
23 department and provide the licensee with an opportunity to properly
24 destroy or dispose of those medical records as required under this
25 subsection unless a delay in the proper destruction or disposal may
26 compromise the patient's confidentiality. The department may assess
27 the licensee with the costs incurred by the department to enforce

1 this subsection.

2 (9) ~~(5)~~—A person ~~who~~ **THAT** fails to comply with this section is
3 subject to an administrative fine of not more than \$10,000.00 if
4 the failure was the result of gross negligence or willful and
5 wanton misconduct.

6 (10) ~~(6)~~—Nothing in this section shall be construed to create
7 or change the ownership rights to any medical records.

8 (11) ~~(7)~~—As used in this section:

9 (a) "Medical record" or "record" means information, oral or
10 recorded in any form or medium, that pertains to a patient's health
11 care, medical history, diagnosis, prognosis, or medical condition
12 and that is maintained by a licensee in the process of providing
13 medical services.

14 (b) "Medical records company" means a person who contracts for
15 or agrees to protect, maintain, and provide access to medical
16 records for a health care provider or health facility or agency in
17 accordance with this section.

18 (c) "Patient" means an individual who receives or has received
19 health care from a health care provider or health facility or
20 agency. Patient includes a guardian, if appointed, and a parent,
21 guardian, or person acting in loco parentis, if the individual is a
22 minor, unless the minor lawfully obtained health care without the
23 consent or notification of a parent, guardian, or other person
24 acting in loco parentis, in which case the minor has the exclusive
25 right to exercise the rights of a patient under this section with
26 respect to his or her medical records relating to that care.

27 **SEC. 16213A. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**

1 (2), A PERSON THAT VIOLATES SECTION 16213(1) REGARDING THE
2 DOCUMENTATION OF A MEDICAL SERVICE INVOLVING VAGINAL OR ANAL
3 PENETRATION IN A PATIENT'S MEDICAL RECORD IS GUILTY OF A
4 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 180 DAYS
5 OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

6 (2) A PERSON THAT INTENTIONALLY VIOLATES SECTION 16213(1)
7 REGARDING THE DOCUMENTATION OF A MEDICAL SERVICE DESCRIBED IN
8 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
9 NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR
10 BOTH.

11 Sec. 16299. (1) Except as otherwise provided in subsection
12 (2), a person who violates or aids or abets another in a violation
13 of this article, other than those matters described in sections
14 16294 and 16296, is guilty of a misdemeanor punishable as follows:

15 (a) For the first offense, by imprisonment for not more than
16 90 days ~~or~~ a fine of not more than \$100.00, or both.

17 (b) For the second or subsequent offense, by imprisonment for
18 not less than 90 days nor more than 6 months ~~or~~ a fine of not
19 less than \$200.00 nor more than \$500.00, or both.

20 (2) Subsection (1) does not apply to a violation of section
21 17015, 17015a, 17017, 17515, or 17517, **OR TO A VIOLATION OF THIS**
22 **ARTICLE FOR WHICH ANOTHER CRIMINAL PENALTY IS SPECIFICALLY**
23 **PRESCRIBED.**

24 **SEC. 17023. (1) THE BOARD SHALL CREATE A DOCUMENT THAT**
25 **PROVIDES GUIDANCE TO LICENSEES ON GENERALLY ACCEPTED STANDARDS OF**
26 **MEDICAL PRACTICE FOR MEDICAL SERVICES INVOLVING VAGINAL OR ANAL**
27 **PENETRATION, INCLUDING INTERNAL PELVIC FLOOR TREATMENTS, PROVIDED**

1 BY PHYSICIANS OTHER THAN PHYSICIANS WHO ARE BOARD CERTIFIED AS
2 OBSTETRICIAN-GYNECOLOGISTS.

3 (2) THE BOARD SHALL MAKE THE DOCUMENT REQUIRED UNDER
4 SUBSECTION (1) PUBLICLY AVAILABLE BY 1 YEAR AFTER THE EFFECTIVE
5 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

6 SEC. 17523. (1) THE BOARD SHALL CREATE A DOCUMENT THAT
7 PROVIDES GUIDANCE TO LICENSEES ON GENERALLY ACCEPTED STANDARDS OF
8 MEDICAL PRACTICE FOR MEDICAL SERVICES INVOLVING VAGINAL OR ANAL
9 PENETRATION, INCLUDING INTERNAL PELVIC FLOOR TREATMENTS, PROVIDED
10 BY PHYSICIANS OTHER THAN PHYSICIANS WHO ARE BOARD CERTIFIED AS
11 OBSTETRICIAN-GYNECOLOGISTS.

12 (2) THE BOARD SHALL MAKE THE DOCUMENT REQUIRED UNDER
13 SUBSECTION (1) PUBLICLY AVAILABLE BY 1 YEAR AFTER THE EFFECTIVE
14 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

15 Sec. 20175. (1) A health facility or agency shall keep and
16 maintain a record for each patient, including a full and complete
17 record of tests and examinations performed, observations made,
18 treatments provided, and in the case of a hospital, the purpose of
19 hospitalization. IF A MEDICAL SERVICE PROVIDED TO A PATIENT ON OR
20 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
21 SENTENCE INVOLVES THE VAGINAL OR ANAL PENETRATION OF THE PATIENT, A
22 HEALTH FACILITY OR AGENCY SHALL ENSURE THAT THE PATIENT'S MEDICAL
23 RECORD EXPRESSLY STATES THAT VAGINAL OR ANAL PENETRATION WAS
24 PERFORMED.

25 (2) Unless a longer retention period is otherwise required
26 under federal or state laws or regulations or by generally accepted
27 standards of medical practice, a health facility or agency shall

1 keep and retain each record ~~for~~ **REQUIRED UNDER SUBSECTION (1) AS**
2 **FOLLOWS:**

3 (A) **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B), FOR a**
4 minimum of 7 years from the date of service to which the record
5 pertains.

6 (B) **FOR A MINIMUM OF 15 YEARS FROM THE DATE OF SERVICE TO**
7 **WHICH THE RECORD PERTAINS IF THE SERVICE IS PERFORMED ON OR AFTER**
8 **THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
9 **SUBDIVISION AND 1 OF THE FOLLOWING APPLIES:**

10 (i) **THE RECORD INCLUDES A MEDICAL SERVICE INVOLVING THE**
11 **VAGINAL OR ANAL PENETRATION OF A PATIENT. THIS SUBPARAGRAPH DOES**
12 **NOT APPLY TO A RECORD FOR A MEDICAL SERVICE THAT PRIMARILY RELATES**
13 **TO THE PATIENT'S REPRODUCTIVE, GYNECOLOGICAL, OR SEXUAL HEALTH.**

14 (ii) **THE PATIENT HAS FILED A COMPLAINT WITH THE HEALTH**
15 **FACILITY OR AGENCY ALLEGING SEXUAL MISCONDUCT BY AN INDIVIDUAL WHO**
16 **IS EMPLOYED BY, UNDER CONTRACT TO, OR GRANTED PRIVILEGES BY THE**
17 **HEALTH FACILITY OR AGENCY. AS USED IN THIS SUBPARAGRAPH, "SEXUAL**
18 **MISCONDUCT" MEANS THE CONDUCT DESCRIBED IN SECTION 90, 136, 145A,**
19 **145B, 145C, 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN PENAL**
20 **CODE, 1931 PA 328, MCL 750.90, 750.136, 750.145A, 750.145B,**
21 **750.145C, 750.520B, 750.520C, 750.520D, 750.520E, OR 750.520G,**
22 **REGARDLESS OF WHETHER THE CONDUCT RESULTED IN A CRIMINAL**
23 **CONVICTION.**

24 (3) **A health facility or agency shall maintain the records**
25 **REQUIRED UNDER SUBSECTION (1) in such a manner as to protect their**
26 **integrity, to ensure their confidentiality and proper use, and to**
27 **ensure their accessibility and availability to each patient or his**

1 or her authorized representative as required by law.

2 (4) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6)**, A health
3 facility or agency may destroy a record **REQUIRED UNDER SUBSECTION**
4 **(1)** that is less than 7 years old only if both of the following are
5 satisfied:

6 (a) The health facility or agency sends a written notice to
7 the patient at the last known address of that patient informing the
8 patient that the record is about to be destroyed, offering the
9 patient the opportunity to request a copy of that record, and
10 requesting the patient's written authorization to destroy the
11 record.

12 (b) The health facility or agency receives written
13 authorization from the patient or his or her authorized
14 representative agreeing to the destruction of the record.

15 (5) Except as otherwise provided under federal or state laws
16 and regulations, records required to be maintained under ~~this~~
17 subsection **(1)**, **OTHER THAN A RECORD DESCRIBED IN SUBSECTION (2) (B)**,
18 may be destroyed or otherwise disposed of after being maintained
19 for 7 years, **AND RECORDS DESCRIBED IN SUBSECTION (2) (B) MAY BE**
20 **DESTROYED OR OTHERWISE DISPOSED OF AFTER BEING MAINTAINED FOR 15**
21 **YEARS**. If records maintained in accordance with this section are
22 subsequently destroyed or otherwise disposed of, those records
23 ~~shall~~ **MUST** be shredded, incinerated, electronically deleted, or
24 otherwise disposed of in a manner that ensures continued
25 confidentiality of the patient's health care information and any
26 other personal information relating to the patient. If records are
27 **NOT** destroyed or otherwise disposed of as provided under this

1 subsection **OR SUBSECTION (4)**, the department may take action
2 including, but not limited to, contracting for or making other
3 arrangements to ensure that those records and any other
4 confidential identifying information related to the patient are
5 properly destroyed or disposed of to protect the confidentiality of
6 patient's health care information and any other personal
7 information relating to the patient. Before the department takes
8 action in accordance with this subsection, the department, if able
9 to identify the health facility or agency responsible for the
10 improper destruction or disposal of the medical records at issue,
11 shall send a written notice to that health facility or agency at
12 the last known address on file with the department and provide the
13 health facility or agency with an opportunity to properly destroy
14 or dispose of those medical records as required under this
15 subsection **OR SUBSECTION (4)**, unless a delay in the proper
16 destruction or disposal may compromise the patient's
17 confidentiality. The department may assess the health facility or
18 agency with the costs incurred by the department to enforce this
19 subsection. In addition to the sanctions set forth in section
20 20165, a hospital that fails to comply with this subsection **OR**
21 **SUBSECTION (4)** is subject to an administrative fine of \$10,000.00.

22 **(6) A HEALTH FACILITY OR AGENCY SHALL ONLY DESTROY A RECORD**
23 **DESCRIBED IN SUBSECTION (2) (B) IN ACCORDANCE WITH SUBSECTION (5).**

24 **(7) ~~(2)~~**—A hospital shall take precautions to ~~assure~~**ENSURE**
25 that the records required ~~by~~**UNDER** subsection (1) are not
26 wrongfully altered or destroyed. A hospital that fails to comply
27 with this subsection is subject to an administrative fine of

1 \$10,000.00.

2 (8) ~~(3)~~—Unless otherwise provided by law, the licensing and
3 certification records required by this article are public records.

4 (9) ~~(4)~~—Departmental officers and employees shall respect the
5 confidentiality of patient clinical records and shall not divulge
6 or disclose the contents of records in a manner that identifies an
7 individual except pursuant to court order or as otherwise
8 authorized by law.

9 (10) ~~(5)~~—A health facility or agency that employs, contracts
10 with, or grants privileges to a health professional licensed or
11 registered under article 15 shall report the following to the
12 department not more than 30 days after it occurs:

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

23 (b) Restriction or acceptance of the surrender of the clinical
24 privileges of a licensee or registrant under either of the
25 following circumstances:

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

1 (ii) There is an agreement in which the health facility or
2 agency agrees not to conduct an investigation into the licensee's
3 or registrant's alleged professional incompetence or improper
4 professional conduct.

5 (c) A case in which a health professional resigns or
6 terminates a contract or whose contract is not renewed instead of
7 the health facility **OR AGENCY** taking disciplinary action against
8 the health professional.

9 **(11)** ~~(6)~~—Upon request by another health facility or agency
10 seeking a reference for purposes of changing or granting staff
11 privileges, credentials, or employment, a health facility or agency
12 that employs, contracts with, or grants privileges to health
13 professionals licensed or registered under article 15 shall notify
14 the requesting health facility or agency of any disciplinary or
15 other action reportable under subsection ~~(5)~~—**(10)** that it has taken
16 against a health professional licensed or registered under article
17 15 and employed by, under contract to, or granted privileges by the
18 health facility or agency.

19 **(12)** ~~(7)~~—For the purpose of reporting disciplinary actions
20 under this section, a health facility or agency shall include only
21 the following in the information provided:

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

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

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

26 (d) The date of the incident that is the basis for the
27 disciplinary action.

1 **(13)** ~~(8)~~—The records, data, and knowledge collected for or by
2 individuals or committees assigned a professional review function
3 in a health facility or agency, or an institution of higher
4 education in this state that has colleges of osteopathic and human
5 medicine, are confidential, ~~shall~~**MUST** be used only for the
6 purposes provided in this article, are not public records, and are
7 not subject to court subpoena.

8 Sec. 20175a. (1) If a health facility or agency is unable to
9 comply with section 20175, the health facility or agency shall
10 employ or contract, arrange, or enter into an agreement with
11 another health facility or agency or a medical records company to
12 protect, maintain, and provide access to those records required
13 under section 20175(1).

14 (2) If a health facility or agency closes or otherwise ceases
15 operation, the health facility or agency shall not abandon the
16 records required to be maintained under section 20175(1) and shall
17 send a written notice to the department that specifies who will
18 have custody of the medical records and how a patient may request
19 access to or copies of his or her medical records and shall do
20 either of the following:

21 (a) Transfer the records required under section 20175(1) to
22 any of the following:

23 (i) A successor health facility or agency.

24 (ii) If designated by the patient or his or her authorized
25 representative, to the patient or a specific health facility or
26 agency or a health care provider licensed or registered under
27 article 15.

1 (iii) A health facility or agency or a medical records company
2 with which the health facility or agency had contracted or entered
3 into an agreement to protect, maintain, and provide access to those
4 records required under section 20175(1).

5 (b) ~~In~~**EXCEPT AS OTHERWISE PROVIDED IN SECTION 20175(6) AND IN**
6 accordance with section 20175(1) **TO (5)**, as long as the health
7 facility or agency sends a written notice to the last known address
8 of each patient for whom he or she has provided medical services
9 and receives written authorization from the patient or his or her
10 authorized representative, destroy the records required under
11 section 20175(1). The notice ~~shall~~**MUST** provide the patient with 30
12 days to request a copy of his or her record or to designate where
13 he or she would like his or her medical records transferred and
14 shall request from the patient within 30 days written authorization
15 for the destruction of his or her medical records. ~~If~~**EXCEPT AS**
16 **OTHERWISE PROVIDED IN SECTION 20175(6), IF** the patient fails to
17 request a copy or transfer of his or her medical records or to
18 provide the health facility or agency with written authorization
19 for the destruction, then the health facility or agency shall not
20 destroy those records that are less than 7 years old but may
21 destroy, in accordance with section 20175(1) **TO (5)**, those that are
22 7 years old or older.

23 (3) Nothing in this section shall be conducted to create or
24 change the ownership rights to any medical records.

25 (4) A person that fails to comply with this section is subject
26 to an administrative fine of not more than \$10,000.00 if the
27 failure was the result of gross negligence or willful and wanton

1 misconduct.

2 (5) As used in this section:

3 (a) "Medical record" or "record" means information, oral or
4 recorded in any form or medium, that pertains to a patient's health
5 care, medical history, diagnosis, prognosis, or medical condition
6 and that is maintained by a licensee in the process of providing
7 medical services.

8 (b) "Medical records company" means a person who contracts for
9 or agrees to protect, maintain, and provide access to medical
10 records for a health facility or agency in accordance with section
11 20175.

12 (c) "Patient" means an individual who receives or has received
13 health care from a health care provider or health facility or
14 agency. Patient includes a guardian, if appointed, and a parent,
15 guardian, or person acting in loco parentis, if the individual is a
16 minor, unless the minor lawfully obtained health care without the
17 consent or notification of a parent, guardian, or other person
18 acting in loco parentis, in which case the minor has the exclusive
19 right to exercise the rights of a patient under this section with
20 respect to his or her medical records relating to that care.

21 **SEC. 20175B. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
22 **(2), A PERSON THAT VIOLATES SECTION 20175(1) REGARDING THE**
23 **DOCUMENTATION OF A MEDICAL SERVICE INVOLVING VAGINAL OR ANAL**
24 **PENETRATION IN A PATIENT'S MEDICAL RECORD IS GUILTY OF A**
25 **MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 180 DAYS**
26 **OR A FINE OF NOT MORE THAN \$2,500.00, OR BOTH.**

27 **(2) A PERSON WHO INTENTIONALLY VIOLATES SECTION 20175(1)**

1 REGARDING THE DOCUMENTATION OF A MEDICAL SERVICE DESCRIBED IN
2 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
3 NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR
4 BOTH.

5 Sec. 20199. (1) Except as **OTHERWISE** provided in subsection (2)
6 ~~or section 20142,~~ **OR THIS ARTICLE**, a person ~~who~~ **THAT** violates this
7 article or a rule promulgated or an order issued under this article
8 is guilty of a misdemeanor, punishable by **A** fine of not more than
9 \$1,000.00 for each day the violation continues or, in case of a
10 violation of sections 20551 to 20554, a fine of not more than
11 \$1,000.00 for each occurrence.

12 (2) A person ~~who~~ **THAT** violates sections 20181 to 20184 is
13 guilty of a misdemeanor ~~—~~ punishable by imprisonment for not more
14 than 6 months ~~—~~ or a fine of not more than \$2,000.00, or both.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.