

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.20175a Agreement with another health facility to protect, maintain, and provide access to records; closure of health facility; noncompliance; fine; definitions.

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

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

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

(i) A successor health facility or agency.

(ii) If designated by the patient or the patient's authorized representative, to the patient or a specific health facility or agency or a health care provider licensed or registered under article 15.

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

(b) Except as otherwise provided in section 20175(6) and in accordance with section 20175(1) to (5), as long as the health facility or agency sends a written notice to the last known address of each patient for whom the health facility or agency has provided medical services and receives written authorization from the patient or the patient's authorized representative, destroy the records required under section 20175(1). The notice must provide the patient with 30 days to request a copy of the patient's records or to designate where the patient would like the patient's medical records transferred and must request from the patient within 30 days written authorization for the destruction of the patient's medical records. Except as otherwise provided in section 20175(6), if the patient fails to request a copy or transfer of the patient's medical records or to provide the health facility or agency with written authorization for the destruction, then the health facility or agency shall not destroy those records that are less than 7 years old but may destroy, in accordance with section 20175(1) to (5), those that are 7 years old or older.

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

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

(5) As used in this section:

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

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

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

(6) This section does not apply to a health facility or agency that is a health maintenance organization.

History: Add. 2006, Act 481, Imd. Eff. Dec. 22, 2006;—Am. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368