

HOUSE BILL No. 6026

April 13, 2010, Introduced by Rep. Neumann and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 7403a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 7403A. (1) A PERSON SHALL NOT OBTAIN OR ATTEMPT TO OBTAIN
2 A CONTROLLED SUBSTANCE OR A PRESCRIPTION FOR A CONTROLLED SUBSTANCE
3 FROM A HEALTH CARE PROVIDER BY FALSELY, AND WITH THE INTENT TO
4 DECEIVE, INFORMING THAT HEALTH CARE PROVIDER THAT HE OR SHE HAS NOT
5 OBTAINED ANY CONTROLLED SUBSTANCE OR PRESCRIPTION FOR A CONTROLLED
6 SUBSTANCE FROM THAT HEALTH CARE PROVIDER OR FROM ANY OTHER HEALTH
7 CARE PROVIDER WITHIN THE PRECEDING 30 DAYS.

8 (2) THE FOLLOWING PRIVILEGES DO NOT APPLY TO MEDICAL RECORDS
9 OR INFORMATION RELEASED OR MADE AVAILABLE UNDER SUBSECTION (1):

1 (A) THE PHYSICIAN-PATIENT PRIVILEGE CREATED IN SECTION 2157 OF
2 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2157.

3 (B) THE DENTIST-PATIENT PRIVILEGE CREATED IN SECTION 16648.

4 (C) ANY OTHER HEALTH PROFESSIONAL-PATIENT PRIVILEGE CREATED OR
5 RECOGNIZED BY LAW.

6 (3) TO THE EXTENT NOT PROTECTED BY THE IMMUNITY CONFERRED BY
7 1964 PA 170, MCL 691.1401 TO 691.1419, AN INDIVIDUAL WHO IN GOOD
8 FAITH PROVIDES ACCESS TO MEDICAL RECORDS OR INFORMATION UNDER THIS
9 SECTION IS IMMUNE FROM CIVIL OR ADMINISTRATIVE LIABILITY ARISING
10 FROM THAT CONDUCT, UNLESS THE CONDUCT WAS GROSS NEGLIGENCE OR
11 WILLFUL AND WANTON MISCONDUCT.

12 (4) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME AS
13 FOLLOWS:

14 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE PERSON IS
15 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
16 THAN 90 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

17 (B) A PERSON WHO OBTAINS OR ATTEMPTS TO OBTAIN A CONTROLLED
18 SUBSTANCE OR A PRESCRIPTION FOR A CONTROLLED SUBSTANCE IN VIOLATION
19 OF THIS SECTION USING BENEFITS UNDER MEDICARE OR MEDICAID IS GUILTY
20 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR
21 A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

22 (5) THIS SECTION DOES NOT PROHIBIT THE PERSON FROM BEING
23 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION OF
24 LAW ARISING OUT OF THE VIOLATION OF THIS SECTION.

25 (6) AS USED IN THIS SECTION, "HEALTH CARE PROVIDER" MEANS THAT
26 TERM AS DEFINED IN SECTION 9206.