

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 71

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 16213, 20175, 20175a, and 20199 (MCL  
333.16213, 333.20175, 333.20175a, and 333.20199), sections 16213  
and 20175a as added and section 20175 as amended by 2006 PA 481,  
and by adding sections 16213a, 16429, 17029, 17529, 17829, 17909,  
and 20175b.

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

1           Sec. 16213. (1) ~~An individual licensed under this article~~ **A**  
2 **licensee** shall keep and maintain a record for each patient for whom  
3 ~~he or she~~ **the licensee** has provided medical services, including a  
4 full and complete record of tests and examinations performed,  
5 observations made, and treatments provided. **If a medical service**

1 provided to a patient on or after the effective date of the  
2 amendatory act that added this sentence involves the vaginal or  
3 anal penetration of the patient, a licensee shall expressly state  
4 in the patient's record that vaginal or anal penetration was  
5 performed unless the medical service meets any of the circumstances  
6 described in subsection (2) (b) (i), (ii), (iii), or (iv).

7 (2) Unless a longer retention period is otherwise required  
8 under federal or state laws or regulations or by generally accepted  
9 standards of medical practice, a licensee shall keep and retain  
10 each record ~~for~~ required under subsection (1) as follows:

11 (a) Except as otherwise provided in subdivision (b), for a  
12 minimum of 7 years from the date of service to which the record  
13 pertains.

14 (b) If the record is for a medical service performed on or  
15 after the effective date of the amendatory act that added this  
16 subdivision that involves the vaginal or anal penetration of a  
17 patient, for a minimum of 15 years from the date of service to  
18 which the record pertains. This subdivision does not apply to a  
19 record for any of the following:

20 (i) A medical service that primarily relates to the patient's  
21 urological, gastrointestinal, reproductive, gynecological, or  
22 sexual health.

23 (ii) A medical service that is necessary and associated with or  
24 incident to a medical emergency. As used in this subparagraph,  
25 "medical emergency" means a circumstance that, in the licensee's  
26 good-faith medical judgment, creates an immediate threat of serious  
27 risk to the life or physical health of the patient.

28 (iii) A medical service performed for the purpose of rectally  
29 administering a drug or medicine.

1           (iv) A medical service performed to measure a patient's  
2 temperature.

3           (3) The records ~~shall~~**required under subsection (1) must** be  
4 maintained in such a manner as to protect their integrity, to  
5 ensure their confidentiality and proper use, and to ensure their  
6 accessibility and availability to each patient or ~~his or her~~**the**  
7 **patient's** authorized representative as required by law.

8           (4) ~~A~~**Except as otherwise provided in subsection (7), a**  
9 licensee may destroy a record **required under subsection (1)** that is  
10 less than 7 years old only if both of the following are satisfied:

11           (a) The licensee sends a written notice to the patient at the  
12 last known address of that patient informing the patient that the  
13 record is about to be destroyed, offering the patient the  
14 opportunity to request a copy of that record, and requesting the  
15 patient's written authorization to destroy the record.

16           (b) The licensee receives written authorization from the  
17 patient or ~~his or her~~**the patient's** authorized representative  
18 agreeing to the destruction of the record.

19           (5) ~~(2)~~—If a licensee is unable to comply with this section,  
20 the licensee shall employ or contract, arrange, or enter into an  
21 agreement with another health care provider, a health facility or  
22 agency, or a medical records company to protect, maintain, and  
23 provide access to those records required under subsection (1).

24           (6) ~~(3)~~—If a licensee or registrant sells or closes ~~his or her~~  
25 **the licensee's or registrant's** practice, retires from practice, or  
26 otherwise ceases to practice under this article, the licensee or  
27 the personal representative of the licensee, if the licensee is  
28 deceased, shall not abandon the records required under this section  
29 and shall send a written notice to the department that specifies

1 who will have custody of the medical records and how a patient may  
2 request access to or copies of ~~his or her~~ **the patient's** medical  
3 records and shall do either of the following:

4 (a) Transfer the records required under subsection (1) to any  
5 of the following:

6 (i) A successor licensee.

7 (ii) If requested by the patient or ~~his or her~~ **the patient's**  
8 authorized representative, to the patient or a specific health  
9 facility or agency or other health care provider licensed under  
10 article 15.

11 (iii) A health care provider, a health facility or agency, or a  
12 medical records company with which the licensee had contracted or  
13 entered into an agreement to protect, maintain, and provide access  
14 to those records required under subsection (1).

15 (b) ~~In~~ **Except as otherwise provided in subsection (7), and in**  
16 accordance with ~~subsection (1), subsections (1) to (4),~~ as long as  
17 the licensee or the personal representative of the licensee, if the  
18 licensee is deceased, sends a written notice to the last known  
19 address of each patient for whom ~~he or she~~ **the licensee** has  
20 provided medical services and receives written authorization from  
21 the patient or ~~his or her~~ **the patient's** authorized representative,  
22 destroy the records required under subsection (1). The notice ~~shall~~  
23 **must** provide the patient with 30 days to request a copy of ~~his or~~  
24 ~~her record~~ **the patient's records** or to designate where ~~he or she~~  
25 **the patient** would like ~~his or her~~ **the patient's** medical records  
26 transferred and ~~shall~~ **must** request from the patient within 30 days  
27 written authorization for the destruction of ~~his or her~~ **the**  
28 **patient's** medical records. ~~If~~ **Except as otherwise provided in**  
29 **subsection (7), if** the patient fails to request a copy or transfer

1 of ~~his or her~~ **the patient's** medical records or to provide the  
2 licensee with written authorization for the destruction, then the  
3 licensee or the personal representative of the licensee shall not  
4 destroy those records that are less than 7 years old but may  
5 destroy, in accordance with subsection ~~(4)~~, **(8)**, those that are 7  
6 years old or older.

7 **(7) A licensee or the personal representative of a licensee,**  
8 **if the licensee is deceased, shall only destroy a record described**  
9 **in subsection (2) (b) in accordance with subsection (8).**

10 **(8) ~~(4)~~—**Except as otherwise provided under this section or  
11 federal or state laws and regulations, records required to be  
12 maintained under subsection (1), **other than a record described in**  
13 **subsection (2) (b),** may be destroyed or otherwise disposed of after  
14 being maintained for 7 years **and records described in subsection**  
15 **(2) (b) may be destroyed or otherwise disposed of after being**  
16 **maintained for 15 years.** If records maintained in accordance with  
17 this section are subsequently destroyed or otherwise disposed of,  
18 those records ~~shall~~ **must** be shredded, incinerated, electronically  
19 deleted, or otherwise disposed of in a manner that ensures  
20 continued confidentiality of the patient's health care information  
21 and any other personal information relating to the patient. If  
22 records are **not** destroyed or otherwise disposed of as provided  
23 under this subsection, the department may take action, including,  
24 but not limited to, contracting for or making other arrangements to  
25 ensure that those records and any other confidential identifying  
26 information related to the patient are properly destroyed or  
27 disposed of to protect the confidentiality of patient's health care  
28 information and any other personal information relating to the  
29 patient. Before the department takes action in accordance with this

1 subsection, the department, if able to identify the licensee  
 2 responsible for the improper destruction or disposal of the medical  
 3 records at issue, shall send a written notice to that licensee at  
 4 ~~his or her~~ **the licensee's** last known address or place of business  
 5 on file with the department and provide the licensee with an  
 6 opportunity to properly destroy or dispose of those medical records  
 7 as required under this subsection unless a delay in the proper  
 8 destruction or disposal may compromise the patient's  
 9 confidentiality. The department may assess the licensee with the  
 10 costs incurred by the department to enforce this subsection.

11 **(9)** ~~(5) A~~ **Except as otherwise provided in section 16213a, a**  
 12 **person** ~~who~~ **that** fails to comply with this section is subject to an  
 13 administrative fine of not more than \$10,000.00 if the failure was  
 14 the result of gross negligence or willful and wanton misconduct.

15 **(10)** ~~(6)~~ Nothing in this section shall be construed to create  
 16 or change the ownership rights to any medical records.

17 **(11)** ~~(7)~~ As used in this section:

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

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

27 (c) "Patient" means an individual who receives or has received  
 28 health care from a health care provider or health facility or  
 29 agency. Patient includes a guardian, if appointed, and a parent,

1 guardian, or person acting in loco parentis, if the individual is a  
2 minor, unless the minor lawfully obtained health care without the  
3 consent or notification of a parent, guardian, or other person  
4 acting in loco parentis, in which case the minor has the exclusive  
5 right to exercise the rights of a patient under this section with  
6 respect to ~~his or her~~ **the minor's** medical records relating to that  
7 care.

8       **Sec. 16213a. (1) Except as otherwise provided in subsections**  
9 **(2) and (3), a person that violates section 16213(1) regarding the**  
10 **documentation of a medical service involving vaginal or anal**  
11 **penetration in a patient's medical record is subject to an**  
12 **administrative fine or guilty of a crime as follows:**

13       **(a) For a first violation, an administrative fine of not more**  
14 **than \$1,000.00.**

15       **(b) For a second violation, an administrative fine of not more**  
16 **than \$2,500.00.**

17       **(c) For a third or subsequent violation, a misdemeanor**  
18 **punishable by imprisonment for not more than 180 days or a fine of**  
19 **not more than \$5,000.00, or both.**

20       **(2) A person that violates section 16213(1) regarding the**  
21 **documentation of a medical service involving vaginal or anal**  
22 **penetration in a patient's medical record is guilty of a**  
23 **misdemeanor punishable by imprisonment for not more than 180 days**  
24 **or a fine of \$5,000.00, or both, if the violation was the result of**  
25 **gross negligence.**

26       **(3) A person that intentionally violates section 16213(1)**  
27 **regarding the documentation of a medical service involving vaginal**  
28 **or anal penetration in a patient's medical record is guilty of a**  
29 **felony punishable by imprisonment for not more than 2 years or a**

1 fine of not more than \$7,500.00, or both.

2 (4) This section does not limit any other sanction or  
3 additional action a disciplinary subcommittee is authorized to  
4 impose or take.

5 Sec. 16429. The department may promulgate rules that provide  
6 guidance to licensees on generally accepted standards of practice  
7 for services involving vaginal or anal penetration, including  
8 internal pelvic floor treatments. If the department promulgates  
9 rules under this section, the department shall consult with  
10 appropriate professional associations and other interested  
11 stakeholders.

12 Sec. 17029. The department may promulgate rules that provide  
13 guidance to licensees on generally accepted standards of medical  
14 practice for medical services involving vaginal or anal  
15 penetration, including internal pelvic floor treatments but  
16 excluding medical services that primarily relate to a patient's  
17 urological, gastrointestinal, reproductive, gynecological, or  
18 sexual health, that are performed to measure a patient's  
19 temperature, or that are performed for the purpose of rectally  
20 administering a drug or medicine. If the department promulgates  
21 rules under this section, the department shall consult with  
22 appropriate professional associations and other interested  
23 stakeholders.

24 Sec. 17529. The department may promulgate rules that provide  
25 guidance to licensees on generally accepted standards of medical  
26 practice for medical services involving vaginal or anal  
27 penetration, including internal pelvic floor treatments but  
28 excluding medical services that primarily relate to a patient's  
29 urological, gastrointestinal, reproductive, gynecological, or



1 sexual health, that are performed to measure a patient's  
2 temperature, or that are performed for the purpose of rectally  
3 administering a drug or medicine. If the department promulgates  
4 rules under this section, the department shall consult with  
5 appropriate professional associations and other interested  
6 stakeholders.

7       Sec. 17829. The department may promulgate rules that provide  
8 guidance to licensees on generally accepted standards of practice  
9 for services involving vaginal or anal penetration, including  
10 internal pelvic floor treatments. If the department promulgates  
11 rules under this section, the department shall consult with  
12 appropriate professional associations and other interested  
13 stakeholders.

14       Sec. 17909. The department may promulgate rules that provide  
15 guidance to licensees on generally accepted standards of practice  
16 for services involving vaginal or anal penetration, including  
17 internal pelvic floor treatments. If the department promulgates  
18 rules under this section, the department shall consult with  
19 appropriate professional associations and other interested  
20 stakeholders.

21       Sec. 20175. (1) A health facility or agency shall keep and  
22 maintain a record for each patient, including a full and complete  
23 record of tests and examinations performed, observations made,  
24 treatments provided, and in the case of a hospital, the purpose of  
25 hospitalization. **If a medical service provided to a patient on or**  
26 **after the effective date of the amendatory act that added this**  
27 **sentence involves the vaginal or anal penetration of the patient, a**  
28 **health facility or agency shall ensure that the patient's medical**  
29 **record expressly states that vaginal or anal penetration was**

1 performed unless the medical service meets any of the circumstances  
2 described in subsection (2) (b) (i) (A), (B), (C), or (D).

3 (2) Unless a longer retention period is otherwise required  
4 under federal or state laws or regulations or by generally accepted  
5 standards of medical practice, a health facility or agency shall  
6 keep and retain each record ~~for~~ **required under subsection (1) as**  
7 **follows:**

8 (a) **Except as otherwise provided in subdivision (b), for a**  
9 **minimum of 7 years from the date of service to which the record**  
10 **pertains.**

11 (b) **For a minimum of 15 years from the date of service to**  
12 **which the record pertains if the service is performed on or after**  
13 **the effective date of the amendatory act that added this**  
14 **subdivision and 1 of the following applies:**

15 (i) **The record includes a medical service involving the vaginal**  
16 **or anal penetration of a patient. This subparagraph does not apply**  
17 **to a record for any of the following:**

18 (A) **A medical service that primarily relates to the patient's**  
19 **urological, gastrointestinal, reproductive, gynecological, or**  
20 **sexual health.**

21 (B) **A medical service that is necessary and associated with or**  
22 **incident to a medical emergency. As used in this sub-subparagraph,**  
23 **"medical emergency" means a circumstance that, in the good-faith**  
24 **medical judgment of a health professional who is licensed under**  
25 **article 15, creates an immediate threat of serious risk to the life**  
26 **or physical health of the patient.**

27 (C) **A medical service performed for the purpose of rectally**  
28 **administering a drug or medicine.**

29 (D) **A medical service performed to measure a patient's**

1 temperature.

2 (ii) The patient has filed a complaint with the health facility  
3 or agency alleging sexual misconduct by an individual who is  
4 employed by, under contract to, or granted privileges by the health  
5 facility or agency. As used in this subparagraph, "sexual  
6 misconduct" means the conduct described in section 90, 136, 145a,  
7 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal  
8 code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b,  
9 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g,  
10 regardless of whether the conduct resulted in a criminal  
11 conviction.

12 (3) A health facility or agency shall maintain the records  
13 required under subsection (1) in such a manner as to protect their  
14 integrity, to ensure their confidentiality and proper use, and to  
15 ensure their accessibility and availability to each patient or ~~his~~  
16 ~~or her~~ the patient's authorized representative as required by law.

17 (4) ~~A~~ Except as otherwise provided in subsection (6), a health  
18 facility or agency may destroy a record required under subsection  
19 (1) that is less than 7 years old only if both of the following are  
20 satisfied:

21 (a) The health facility or agency sends a written notice to  
22 the patient at the last known address of that patient informing the  
23 patient that the record is about to be destroyed, offering the  
24 patient the opportunity to request a copy of that record, and  
25 requesting the patient's written authorization to destroy the  
26 record.

27 (b) The health facility or agency receives written  
28 authorization from the patient or ~~his or her~~ the patient's  
29 authorized representative agreeing to the destruction of the

1 record.

2           (5) Except as otherwise provided under federal or state laws  
3 and regulations, records required to be maintained under ~~this~~  
4 subsection (1), **other than a record described in subsection (2) (b)**,  
5 may be destroyed or otherwise disposed of after being maintained  
6 for 7 years, **and records described in subsection (2) (b) may be**  
7 **destroyed or otherwise disposed of after being maintained for 15**  
8 **years**. If records maintained in accordance with this section are  
9 subsequently destroyed or otherwise disposed of, those records  
10 ~~shall~~**must** be shredded, incinerated, electronically deleted, or  
11 otherwise disposed of in a manner that ensures continued  
12 confidentiality of the patient's health care information and any  
13 other personal information relating to the patient. If records are  
14 **not** destroyed or otherwise disposed of as provided under this  
15 subsection **or subsection (4)**, the department may take action,  
16 including, but not limited to, contracting for or making other  
17 arrangements to ensure that those records and any other  
18 confidential identifying information related to the patient are  
19 properly destroyed or disposed of to protect the confidentiality of  
20 patient's health care information and any other personal  
21 information relating to the patient. Before the department takes  
22 action in accordance with this subsection, the department, if able  
23 to identify the health facility or agency responsible for the  
24 improper destruction or disposal of the medical records at issue,  
25 shall send a written notice to that health facility or agency at  
26 the last known address on file with the department and provide the  
27 health facility or agency with an opportunity to properly destroy  
28 or dispose of those medical records as required under this  
29 subsection **or subsection (4)**, unless a delay in the proper

1 destruction or disposal may compromise the patient's  
 2 confidentiality. The department may assess the health facility or  
 3 agency with the costs incurred by the department to enforce this  
 4 subsection. In addition to the sanctions set forth in section  
 5 20165, a hospital that fails to comply with this subsection **or**  
 6 **subsection (4)** is subject to an administrative fine of \$10,000.00.

7 **(6) A health facility or agency shall only destroy a record**  
 8 **described in subsection (2) (b) in accordance with subsection (5).**

9 **(7) ~~(2)~~**—A hospital shall take precautions to ~~assure~~**ensure**  
 10 that the records required ~~by~~**under** subsection (1) are not  
 11 wrongfully altered or destroyed. A hospital that fails to comply  
 12 with this subsection is subject to an administrative fine of  
 13 \$10,000.00.

14 **(8) ~~(3)~~**—Unless otherwise provided by law, the licensing and  
 15 certification records required by this article are public records.

16 **(9) ~~(4)~~**—Departmental officers and employees shall respect the  
 17 confidentiality of patient clinical records and shall not divulge  
 18 or disclose the contents of records in a manner that identifies an  
 19 individual except pursuant to court order or as otherwise  
 20 authorized by law.

21 **(10) ~~(5)~~**—A health facility or agency that employs, contracts  
 22 with, or grants privileges to a health professional licensed or  
 23 registered under article 15 shall report the following to the  
 24 department not more than 30 days after it occurs:

25 (a) Disciplinary action taken by the health facility or agency  
 26 against a health professional licensed or registered under article  
 27 15 based on the licensee's or registrant's professional competence,  
 28 disciplinary action that results in a change of employment status,  
 29 or disciplinary action based on conduct that adversely affects the

1 licensee's or registrant's clinical privileges for a period of more  
2 than 15 days. As used in this subdivision, "adversely affects"  
3 means the reduction, restriction, suspension, revocation, denial,  
4 or failure to renew the clinical privileges of a licensee or  
5 registrant by a health facility or agency.

6 (b) Restriction or acceptance of the surrender of the clinical  
7 privileges of a licensee or registrant under either of the  
8 following circumstances:

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

11 (ii) There is an agreement in which the health facility or  
12 agency agrees not to conduct an investigation into the licensee's  
13 or registrant's alleged professional incompetence or improper  
14 professional conduct.

15 (c) A case in which a health professional resigns or  
16 terminates a contract or whose contract is not renewed instead of  
17 the health facility **or agency** taking disciplinary action against  
18 the health professional.

19 **(11)** ~~(6)~~—Upon request by another health facility or agency  
20 seeking a reference for purposes of changing or granting staff  
21 privileges, credentials, or employment, a health facility or agency  
22 that employs, contracts with, or grants privileges to health  
23 professionals licensed or registered under article 15 shall notify  
24 the requesting health facility or agency of any disciplinary or  
25 other action reportable under subsection ~~(5)~~ **(10)** that it has taken  
26 against a health professional licensed or registered under article  
27 15 and employed by, under contract to, or granted privileges by the  
28 health facility or agency.

29 **(12)** ~~(7)~~—For the purpose of reporting disciplinary actions

1 under this section, a health facility or agency shall include only  
2 the following in the information provided:

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

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

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

7 (d) The date of the incident that is the basis for the  
8 disciplinary action.

9 **(13)** ~~(8)~~—The records, data, and knowledge collected for or by  
10 individuals or committees assigned a professional review function  
11 in a health facility or agency, or an institution of higher  
12 education in this state that has colleges of osteopathic and human  
13 medicine, are confidential, ~~shall~~**must** be used only for the  
14 purposes provided in this article, are not public records, and are  
15 not subject to court subpoena.

16 **(14) This section does not apply to a health facility or**  
17 **agency that is a health maintenance organization.**

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

24 (2) If a health facility or agency closes or otherwise ceases  
25 operation, the health facility or agency shall not abandon the  
26 records required to be maintained under section 20175(1) and shall  
27 send a written notice to the department that specifies who will  
28 have custody of the medical records and how a patient may request  
29 access to or copies of ~~his or her~~**the patient's** medical records and

1 shall do either of the following:

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

4 (i) A successor health facility or agency.

5 (ii) If designated by the patient or ~~his or her~~ **the patient's**  
6 authorized representative, to the patient or a specific health  
7 facility or agency or a health care provider licensed or registered  
8 under article 15.

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

13 (b) ~~In~~ **Except as otherwise provided in section 20175(6) and in**  
14 accordance with section 20175(1) **to (5)**, as long as the health  
15 facility or agency sends a written notice to the last known address  
16 of each patient for whom ~~he or she~~ **the health facility or agency**  
17 has provided medical services and receives written authorization  
18 from the patient or ~~his or her~~ **the patient's** authorized  
19 representative, destroy the records required under section  
20 20175(1). The notice ~~shall~~ **must** provide the patient with 30 days to  
21 request a copy of ~~his or her record~~ **the patient's records** or to  
22 designate where ~~he or she~~ **the patient** would like ~~his or her~~ **the**  
23 **patient's** medical records transferred and ~~shall~~ **must** request from  
24 the patient within 30 days written authorization for the  
25 destruction of ~~his or her~~ **the patient's** medical records. ~~If~~ **Except**  
26 **as otherwise provided in section 20175(6)**, **if** the patient fails to  
27 request a copy or transfer of ~~his or her~~ **the patient's** medical  
28 records or to provide the health facility or agency with written  
29 authorization for the destruction, then the health facility or



1 agency shall not destroy those records that are less than 7 years  
2 old but may destroy, in accordance with section 20175(1) **to (5)**,  
3 those that are 7 years old or older.

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

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

10 (5) As used in this section:

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

16 (b) "Medical records company" means a person who contracts for  
17 or agrees to protect, maintain, and provide access to medical  
18 records for a health facility or agency in accordance with section  
19 20175.

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

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

3           Sec. 20175b. (1) Except as otherwise provided in subsections  
4 (2) and (3), a person that violates section 20175(1) regarding the  
5 documentation of a medical service involving vaginal or anal  
6 penetration in a patient's medical record is subject to an  
7 administrative fine or guilty of a crime as follows:

8           (a) For a first violation, an administrative fine of not more  
9 than \$2,500.00.

10           (b) For a second violation, an administrative fine of not more  
11 than \$5,000.00.

12           (c) For a third or subsequent violation, a misdemeanor  
13 punishable by imprisonment for not more than 180 days or a fine of  
14 not more than \$7,500.00, or both.

15           (2) A person that violates section 20175(1) regarding the  
16 documentation of a medical service involving vaginal or anal  
17 penetration in a patient's medical record is guilty of a  
18 misdemeanor punishable by imprisonment for not more than 180 days  
19 or a fine of \$10,000.00, or both, if the violation was the result  
20 of gross negligence.

21           (3) A person that intentionally violates section 20175(1)  
22 regarding the documentation of a medical service involving vaginal  
23 or anal penetration in a patient's medical record is guilty of a  
24 felony punishable by imprisonment for not more than 2 years or a  
25 fine of not more than \$10,000.00, or both.

26           (4) This section does not limit any other sanction the  
27 department is authorized to impose under section 20165.

28           Sec. 20199. (1) Except as **otherwise** provided in subsection (2)  
29 ~~or section 20142, or this article,~~ a person ~~who~~**that** violates this

1 article or a rule promulgated or an order issued under this article  
2 is guilty of a misdemeanor, punishable by **a** fine of not more than  
3 \$1,000.00 for each day the violation continues or, in case of a  
4 violation of sections 20551 to 20554, a fine of not more than  
5 \$1,000.00 for each occurrence.

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

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