

# SENATE BILL NO. 71

February 16, 2023, Introduced by Senators HAUCK, GEISS, CHANG, LAUWERS, BELLINO, BAYER, SHINK, WOJNO, MCCANN, CAVANAGH and POLEHANKI and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

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

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

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

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

25           (i) **A medical service that primarily relates to the patient's**  
 26 **urological, gastrointestinal, reproductive, gynecological, or**  
 27 **sexual health.**

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

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

8           (iv) A medical service performed to measure a patient's  
9 temperature.

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

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

18           (a) The licensee sends a written notice to the patient at the  
19 last known address of that patient informing the patient that the  
20 record is about to be destroyed, offering the patient the  
21 opportunity to request a copy of that record, and requesting the  
22 patient's written authorization to destroy the record.

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

26          (5) ~~(2)~~ If a licensee is unable to comply with this section,  
27 the licensee shall employ or contract, arrange, or enter into an  
28 agreement with another health care provider, a health facility or  
29 agency, or a medical records company to protect, maintain, and

1 provide access to those records required under subsection (1).

2       **(6)** ~~(3)~~ If a licensee or registrant sells or closes ~~his or her~~  
3 **the licensee's or registrant's** practice, retires from practice, or  
4 otherwise ceases to practice under this article, the licensee or  
5 the personal representative of the licensee, if the licensee is  
6 deceased, shall not abandon the records required under this section  
7 and shall send a written notice to the department that specifies  
8 who will have custody of the medical records and how a patient may  
9 request access to or copies of ~~his or her~~ **the patient's** medical  
10 records and shall do either of the following:

11       (a) Transfer the records required under subsection (1) to any  
12 of the following:

13       (i) A successor licensee.

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

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

22       (b) ~~In~~ **Except as otherwise provided in subsection (7), and in**  
23 accordance with ~~subsection (1), subsections (1) to (4),~~ as long as  
24 the licensee or the personal representative of the licensee, if the  
25 licensee is deceased, sends a written notice to the last known  
26 address of each patient for whom ~~he or she~~ **the licensee** has  
27 provided medical services and receives written authorization from  
28 the patient or ~~his or her~~ **the patient's** authorized representative,  
29 destroy the records required under subsection (1). The notice shall

1 **must** provide the patient with 30 days to request a copy of ~~his or~~  
 2 ~~her record~~ **the patient's records** or to designate where ~~he or she~~  
 3 **the patient** would like ~~his or her~~ **the patient's** medical records  
 4 transferred and ~~shall~~ **must** request from the patient within 30 days  
 5 written authorization for the destruction of ~~his or her~~ **the**  
 6 **patient's** medical records. ~~If~~ **Except as otherwise provided in**  
 7 **subsection (7), if** the patient fails to request a copy or transfer  
 8 of ~~his or her~~ **the patient's** medical records or to provide the  
 9 licensee with written authorization for the destruction, then the  
 10 licensee or the personal representative of the licensee shall not  
 11 destroy those records that are less than 7 years old but may  
 12 destroy, in accordance with subsection ~~(4),~~ **(8)**, those that are 7  
 13 years old or older.

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

17 **(8) ~~(4)~~ Except as otherwise provided under this section or**  
 18 **federal or state laws and regulations, records required to be**  
 19 **maintained under subsection (1), other than a record described in**  
 20 **subsection (2) (b), may be destroyed or otherwise disposed of after**  
 21 **being maintained for 7 years and records described in subsection**  
 22 **(2) (b) may be destroyed or otherwise disposed of after being**  
 23 **maintained for 15 years.** If records maintained in accordance with  
 24 this section are subsequently destroyed or otherwise disposed of,  
 25 those records ~~shall~~ **must** be shredded, incinerated, electronically  
 26 deleted, or otherwise disposed of in a manner that ensures  
 27 continued confidentiality of the patient's health care information  
 28 and any other personal information relating to the patient. If  
 29 records are **not** destroyed or otherwise disposed of as provided

1 under this subsection, the department may take action, including,  
 2 but not limited to, contracting for or making other arrangements to  
 3 ensure that those records and any other confidential identifying  
 4 information related to the patient are properly destroyed or  
 5 disposed of to protect the confidentiality of patient's health care  
 6 information and any other personal information relating to the  
 7 patient. Before the department takes action in accordance with this  
 8 subsection, the department, if able to identify the licensee  
 9 responsible for the improper destruction or disposal of the medical  
 10 records at issue, shall send a written notice to that licensee at  
 11 ~~his or her~~ **the licensee's** last known address or place of business  
 12 on file with the department and provide the licensee with an  
 13 opportunity to properly destroy or dispose of those medical records  
 14 as required under this subsection unless a delay in the proper  
 15 destruction or disposal may compromise the patient's  
 16 confidentiality. The department may assess the licensee with the  
 17 costs incurred by the department to enforce this subsection.

18 **(9) ~~(5) A~~ Except as otherwise provided in section 16213a, a**  
 19 **person ~~who~~ that** fails to comply with this section is subject to an  
 20 administrative fine of not more than \$10,000.00 if the failure was  
 21 the result of gross negligence or willful and wanton misconduct.

22 **(10) ~~(6)~~** Nothing in this section shall be construed to create  
 23 or change the ownership rights to any medical records.

24 **(11) ~~(7)~~** As used in this section:

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

1           (b) "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           (c) "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~~ **the minor's** medical records relating to that  
14 care.

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

20           (a) For a first violation, an administrative fine of not more  
21 than \$1,000.00.

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

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

27           (2) A person that violates section 16213(1) regarding the  
28 documentation of a medical service involving vaginal or anal  
29 penetration in a patient's medical record is guilty of a

1 misdemeanor punishable by imprisonment for not more than 180 days  
2 or a fine of \$5,000.00, or both, if the violation was the result of  
3 gross negligence.

4 (3) A person that intentionally violates section 16213(1)  
5 regarding the documentation of a medical service involving vaginal  
6 or anal penetration in a patient's medical record is guilty of a  
7 felony punishable by imprisonment for not more than 2 years or a  
8 fine of not more than \$7,500.00, or both.

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

12 Sec. 16429. (1) The board shall create a document that  
13 provides guidance to licensees on generally accepted standards of  
14 practice for services involving vaginal or anal penetration,  
15 including internal pelvic floor treatments. In creating the  
16 document described in this subsection, the board shall consult with  
17 appropriate professional associations and other interested  
18 stakeholders.

19 (2) The board shall make the document required under  
20 subsection (1) publicly available by 1 year after the effective  
21 date of the amendatory act that added this section.

22 Sec. 17029. (1) The board shall create a document that  
23 provides guidance to licensees on generally accepted standards of  
24 medical practice for medical services involving vaginal or anal  
25 penetration, including internal pelvic floor treatments but  
26 excluding medical services that primarily relate to a patient's  
27 urological, gastrointestinal, reproductive, gynecological, or  
28 sexual health, that are performed to measure a patient's  
29 temperature, or that are performed for the purpose of rectally



1 administering a drug or medicine. In creating the document  
2 described in this subsection, the board shall consult with  
3 appropriate professional associations and other interested  
4 stakeholders.

5 (2) The board shall make the document required under  
6 subsection (1) publicly available by 1 year after the effective  
7 date of the amendatory act that added this section.

8 Sec. 17529. (1) The board shall create a document that  
9 provides guidance to licensees on generally accepted standards of  
10 medical practice for medical services involving vaginal or anal  
11 penetration, including internal pelvic floor treatments but  
12 excluding medical services that primarily relate to a patient's  
13 urological, gastrointestinal, reproductive, gynecological, or  
14 sexual health, that are performed to measure a patient's  
15 temperature, or that are performed for the purpose of rectally  
16 administering a drug or medicine. In creating the document  
17 described in this subsection, the board shall consult with  
18 appropriate professional associations and other interested  
19 stakeholders.

20 (2) The board shall make the document required under  
21 subsection (1) publicly available by 1 year after the effective  
22 date of the amendatory act that added this section.

23 Sec. 17829. (1) The board shall create a document that  
24 provides guidance to licensees on generally accepted standards of  
25 practice for services involving vaginal or anal penetration,  
26 including internal pelvic floor treatments. In creating the  
27 document described in this subsection, the board shall consult with  
28 appropriate professional associations and other interested  
29 stakeholders.

1           (2) The board shall make the document required under  
2 subsection (1) publicly available by 1 year after the effective  
3 date of the amendatory act that added this section.

4           Sec. 17909. (1) The board shall create a document that  
5 provides guidance to licensees on generally accepted standards of  
6 practice for services involving vaginal or anal penetration,  
7 including internal pelvic floor treatments. In creating the  
8 document described in this subsection, the board shall consult with  
9 appropriate professional associations and other interested  
10 stakeholders.

11           (2) The board shall make the document required under  
12 subsection (1) publicly available by 1 year after the effective  
13 date of the amendatory act that added this section.

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. If a medical service provided to a patient on or  
19 after the effective date of the amendatory act that added this  
20 sentence involves the vaginal or anal penetration of the patient, a  
21 health facility or agency shall ensure that the patient's medical  
22 record expressly states that vaginal or anal penetration was  
23 performed unless the medical service meets any of the circumstances  
24 described in subsection (2) (b) (i) (A), (B), (C), or (D).

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  
28 keep and retain each record ~~for~~ required under subsection (1) as  
29 follows:

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

4           (b) For a minimum of 15 years from the date of service to  
5 which the record pertains if the service is performed on or after  
6 the effective date of the amendatory act that added this  
7 subdivision and 1 of the following applies:

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

11           (A) A medical service that primarily relates to the patient's  
12 urological, gastrointestinal, reproductive, gynecological, or  
13 sexual health.

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

20           (C) A medical service performed for the purpose of rectally  
21 administering a drug or medicine.

22           (D) A medical service performed to measure a patient's  
23 temperature.

24           (ii) The patient has filed a complaint with the health facility  
25 or agency alleging sexual misconduct by an individual who is  
26 employed by, under contract to, or granted privileges by the health  
27 facility or agency. As used in this subparagraph, "sexual  
28 misconduct" means the conduct described in section 90, 136, 145a,  
29 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal

1 code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b,  
2 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g,  
3 regardless of whether the conduct resulted in a criminal  
4 conviction.

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

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

14 (a) The health facility or agency sends a written notice to  
15 the patient at the last known address of that patient informing the  
16 patient that the record is about to be destroyed, offering the  
17 patient the opportunity to request a copy of that record, and  
18 requesting the patient's written authorization to destroy the  
19 record.

20 (b) The health facility or agency receives written  
21 authorization from the patient or ~~his or her~~ **the patient's**  
22 authorized representative agreeing to the destruction of the  
23 record.

24 (5) Except as otherwise provided under federal or state laws  
25 and regulations, records required to be maintained under ~~this~~  
26 **subsection (1)**, **other than a record described in subsection (2) (b)**,  
27 may be destroyed or otherwise disposed of after being maintained  
28 for 7 years, **and records described in subsection (2) (b) may be**  
29 **destroyed or otherwise disposed of after being maintained for 15**

1 **years.** If records maintained in accordance with this section are  
2 subsequently destroyed or otherwise disposed of, those records  
3 ~~shall~~**must** be shredded, incinerated, electronically deleted, or  
4 otherwise disposed of in a manner that ensures continued  
5 confidentiality of the patient's health care information and any  
6 other personal information relating to the patient. If records are  
7 **not** destroyed or otherwise disposed of as provided under this  
8 subsection **or subsection (4)**, the department may take action,  
9 including, but not limited to, contracting for or making other  
10 arrangements to ensure that those records and any other  
11 confidential identifying information related to the patient are  
12 properly destroyed or disposed of to protect the confidentiality of  
13 patient's health care information and any other personal  
14 information relating to the patient. Before the department takes  
15 action in accordance with this subsection, the department, if able  
16 to identify the health facility or agency responsible for the  
17 improper destruction or disposal of the medical records at issue,  
18 shall send a written notice to that health facility or agency at  
19 the last known address on file with the department and provide the  
20 health facility or agency with an opportunity to properly destroy  
21 or dispose of those medical records as required under this  
22 subsection **or subsection (4)**, unless a delay in the proper  
23 destruction or disposal may compromise the patient's  
24 confidentiality. The department may assess the health facility or  
25 agency with the costs incurred by the department to enforce this  
26 subsection. In addition to the sanctions set forth in section  
27 20165, a hospital that fails to comply with this subsection **or**  
28 **subsection (4)** is subject to an administrative fine of \$10,000.00.

29 **(6) A health facility or agency shall only destroy a record**

1 **described in subsection (2) (b) in accordance with subsection (5).**

2 (7) ~~(2)~~—A hospital shall take precautions to ~~assure~~**ensure**  
3 that the records required ~~by~~**under** subsection (1) are not  
4 wrongfully altered or destroyed. A hospital that fails to comply  
5 with this subsection is subject to an administrative fine of  
6 \$10,000.00.

7 (8) ~~(3)~~—Unless otherwise provided by law, the licensing and  
8 certification records required by this article are public records.

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

14 (10) ~~(5)~~—A health facility or agency that employs, contracts  
15 with, or grants privileges to a health professional licensed or  
16 registered under article 15 shall report the following to the  
17 department not more than 30 days after it occurs:

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

28 (b) Restriction or acceptance of the surrender of the clinical  
29 privileges of a licensee or registrant under either of the

1 following circumstances:

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

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

8 (c) A case in which a health professional resigns or  
9 terminates a contract or whose contract is not renewed instead of  
10 the health facility **or agency** taking disciplinary action against  
11 the health professional.

12 **(11)** ~~(6)~~—Upon request by another health facility or agency  
13 seeking a reference for purposes of changing or granting staff  
14 privileges, credentials, or employment, a health facility or agency  
15 that employs, contracts with, or grants privileges to health  
16 professionals licensed or registered under article 15 shall notify  
17 the requesting health facility or agency of any disciplinary or  
18 other action reportable under subsection ~~(5)~~ **(10)** that it has taken  
19 against a health professional licensed or registered under article  
20 15 and employed by, under contract to, or granted privileges by the  
21 health facility or agency.

22 **(12)** ~~(7)~~—For the purpose of reporting disciplinary actions  
23 under this section, a health facility or agency shall include only  
24 the following in the information provided:

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

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

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

29 (d) The date of the incident that is the basis for the

1 disciplinary action.

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

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

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

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

24       (i) A successor health facility or agency.

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

29       (iii) A health facility or agency or a medical records company



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

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

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

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

1 (5) As used in this section:

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

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

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

21 **Sec. 20175b. (1) Except as otherwise provided in subsections**  
22 **(2) and (3), 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 subject to an**  
25 **administrative fine or guilty of a crime as follows:**

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

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

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

4 (2) 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 guilty of a  
 7 misdemeanor punishable by imprisonment for not more than 180 days  
 8 or a fine of \$10,000.00, or both, if the violation was the result  
 9 of gross negligence.

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

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

17 Sec. 20199. (1) Except as **otherwise** provided in subsection (2)  
 18 ~~or section 20142, or this article~~, a person ~~who~~**that** violates this  
 19 article or a rule promulgated or an order issued under this article  
 20 is guilty of a misdemeanor, punishable by **a** fine of not more than  
 21 \$1,000.00 for each day the violation continues or, in case of a  
 22 violation of sections 20551 to 20554, a fine of not more than  
 23 \$1,000.00 for each occurrence.

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

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