

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

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. 17029. (1) The board shall create a document that
16 provides guidance to licensees on generally accepted standards of
17 medical practice for medical services involving vaginal or anal
18 penetration, including internal pelvic floor treatments but
19 excluding medical services that primarily relate to a patient's
20 urological, gastrointestinal, reproductive, gynecological, or
21 sexual health, that are performed to measure a patient's
22 temperature, or that are performed for the purpose of rectally
23 administering a drug or medicine. In creating the document
24 described in this subsection, the board shall consult with
25 appropriate professional associations and other interested
26 stakeholders.

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



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

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

16 Sec. 17829. (1) The board shall create a document that
17 provides guidance to licensees on generally accepted standards of
18 practice for services involving vaginal or anal penetration,
19 including internal pelvic floor treatments. In creating the
20 document described in this subsection, the board shall consult with
21 appropriate professional associations and other interested
22 stakeholders.

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

26 Sec. 17909. (1) The board shall create a document that
27 provides guidance to licensees on generally accepted standards of
28 practice for services involving vaginal or anal penetration,
29 including internal pelvic floor treatments. In creating the



1 document described in this subsection, the board shall consult with
 2 appropriate professional associations and other interested
 3 stakeholders.

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

7 Sec. 20175. (1) A health facility or agency shall keep and
 8 maintain a record for each patient, including a full and complete
 9 record of tests and examinations performed, observations made,
 10 treatments provided, and in the case of a hospital, the purpose of
 11 hospitalization. If a medical service provided to a patient on or
 12 after the effective date of the amendatory act that added this
 13 sentence involves the vaginal or anal penetration of the patient, a
 14 health facility or agency shall ensure that the patient's medical
 15 record expressly states that vaginal or anal penetration was
 16 performed unless the medical service meets any of the circumstances
 17 described in subsection (2) (b) (i) (A), (B), (C), or (D).

18 (2) Unless a longer retention period is otherwise required
 19 under federal or state laws or regulations or by generally accepted
 20 standards of medical practice, a health facility or agency shall
 21 keep and retain each record ~~for~~ required under subsection (1) as
 22 follows:

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

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



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

4 (A) A medical service that primarily relates to the patient's
5 urological, gastrointestinal, reproductive, gynecological, or
6 sexual health.

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

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

15 (D) A medical service performed to measure a patient's
16 temperature.

17 (ii) The patient has filed a complaint with the health facility
18 or agency alleging sexual misconduct by an individual who is
19 employed by, under contract to, or granted privileges by the health
20 facility or agency. As used in this subparagraph, "sexual
21 misconduct" means the conduct described in section 90, 136, 145a,
22 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal
23 code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b,
24 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g,
25 regardless of whether the conduct resulted in a criminal
26 conviction.

27 (3) A health facility or agency shall maintain the records
28 required under subsection (1) in such a manner as to protect their
29 integrity, to ensure their confidentiality and proper use, and to



1 ensure their accessibility and availability to each patient or ~~his~~
 2 ~~or her~~ **the patient's** authorized representative as required by law.

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

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

13 (b) The health facility or agency receives written
 14 authorization from the patient or ~~his or her~~ **the patient's**
 15 authorized representative agreeing to the destruction of the
 16 record.

17 **(5) Except as otherwise provided under federal or state laws**
 18 **and regulations, records required to be maintained under ~~this~~**
 19 **subsection (1), other than a record described in subsection (2) (b),**
 20 **may be destroyed or otherwise disposed of after being maintained**
 21 **for 7 years, and records described in subsection (2) (b) may be**
 22 **destroyed or otherwise disposed of after being maintained for 15**
 23 **years.** If records maintained in accordance with this section are
 24 subsequently destroyed or otherwise disposed of, those records
 25 ~~shall~~ **must** be shredded, incinerated, electronically deleted, or
 26 otherwise disposed of in a manner that ensures continued
 27 confidentiality of the patient's health care information and any
 28 other personal information relating to the patient. If records are
 29 **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
 28 \$10,000.00.

29 **(8) ~~(3)~~**—Unless otherwise provided by law, the licensing and



1 certification records required by this article are public records.

2 (9) ~~(4)~~—Departmental officers and employees shall respect the
3 confidentiality of patient clinical records and shall not divulge
4 or disclose the contents of records in a manner that identifies an
5 individual except pursuant to court order or as otherwise
6 authorized by law.

7 (10) ~~(5)~~—A health facility or agency that employs, contracts
8 with, or grants privileges to a health professional licensed or
9 registered under article 15 shall report the following to the
10 department not more than 30 days after it occurs:

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

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

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

26 (ii) There is an agreement in which the health facility or
27 agency agrees not to conduct an investigation into the licensee's
28 or registrant's alleged professional incompetence or improper
29 professional conduct.



1 (c) A case in which a health professional resigns or
 2 terminates a contract or whose contract is not renewed instead of
 3 the health facility **or agency** taking disciplinary action against
 4 the health professional.

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

15 **(12)** ~~(7)~~—For the purpose of reporting disciplinary actions
 16 under this section, a health facility or agency shall include only
 17 the following in the information provided:

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

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

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

22 (d) The date of the incident that is the basis for the
 23 disciplinary action.

24 **(13)** ~~(8)~~—The records, data, and knowledge collected for or by
 25 individuals or committees assigned a professional review function
 26 in a health facility or agency, or an institution of higher
 27 education in this state that has colleges of osteopathic and human
 28 medicine, are confidential, ~~shall~~ **must** be used only for the
 29 purposes provided in this article, are not public records, and are



1 not subject to court subpoena.

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

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

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

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

19 (i) A successor health facility or agency.

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

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

28 (b) ~~In~~ **Except as otherwise provided in section 20175(6) and in**
29 accordance with section 20175(1) **to (5)**, as long as the health



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

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

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

25 (5) As used in this section:

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



1 medical services.

2 (b) "Medical records company" means a person who contracts for
3 or agrees to protect, maintain, and provide access to medical
4 records for a health facility or agency in accordance with section
5 20175.

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

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

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

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

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

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



1 (2) A person that violates section 20175(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 \$10,000.00, or both, if the violation was the result
6 of gross negligence.

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

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

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

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

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

