

**SUBSTITUTE FOR
SENATE BILL NO. 465**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16177 and 20175 (MCL 333.16177 and 333.20175),
section 16177 as amended by 1998 PA 332 and section 20175 as
amended by 2000 PA 319, and by adding sections 16213 and 20175a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16177. (1) An individual applying for licensure or
2 registration under this article shall do so on a form provided by
3 the department. The department shall require each applicant to
4 include on the application form his or her social security number.
5 The department shall not display an applicant's social security
6 number on his or her license or registration. If the facts set
7 forth in the application meet the requirements of the board or task

1 force and this article for licensure or registration, the board or
2 task force shall grant a license or registration to the applicant.
3 A board or task force may require the applicant to take an
4 examination to determine if the applicant meets the qualifications
5 for licensure or registration. The examination shall include
6 subjects determined by the board or task force to be essential to
7 the safe and competent practice of the health profession, the
8 appropriate use of a title, or both. Passing scores or the
9 procedure used to determine passing scores shall be established
10 before an examination is administered.

11 (2) In addition to the information required under subsection
12 (1), an applicant for licensure or registration or a licensee or
13 registrant applying for renewal shall include on a form provided by
14 the department all of the following information, if applicable:

15 (a) A felony conviction.

16 (b) A misdemeanor conviction punishable by imprisonment for a
17 maximum term of 2 years or a misdemeanor conviction involving the
18 illegal delivery, possession, or use of alcohol or a controlled
19 substance.

20 (c) Sanctions imposed against the applicant by a similar
21 licensure, registration, certification, or disciplinary board of
22 another state or country.

23 (3) In addition to the information required under subsections
24 (1) and (2), a physician, osteopathic physician, dentist, or
25 podiatrist applying for licensure or renewal under this article
26 shall report to the department on a form provided by the department
27 the name of each hospital with which he or she is employed or under

1 contract, and each hospital in which he or she is allowed to
2 practice.

3 (4) IN ADDITION TO THE INFORMATION REQUIRED UNDER SUBSECTIONS
4 (1), (2), AND (3), AN APPLICANT FOR LICENSURE AND, BEGINNING THE
5 LICENSE RENEWAL CYCLE AFTER THE EFFECTIVE DATE OF THE AMENDATORY
6 ACT THAT ADDED SECTION 16213, A LICENSEE APPLYING FOR RENEWAL SHALL
7 PROVIDE THE DEPARTMENT, ON THE APPLICATION OR THE LICENSE RENEWAL
8 FORM, WITH AN AFFIDAVIT STATING THAT HE OR SHE HAS A WRITTEN POLICY
9 FOR PROTECTING, MAINTAINING, AND PROVIDING ACCESS TO HIS OR HER
10 MEDICAL RECORDS IN ACCORDANCE WITH SECTION 16213 AND FOR COMPLYING
11 WITH SECTION 16213 IN THE EVENT THAT HE OR SHE SELLS OR CLOSES HIS
12 OR HER PRACTICE, RETIRES FROM PRACTICE, OR OTHERWISE CEASES TO
13 PRACTICE UNDER THIS ARTICLE. THE APPLICANT OR LICENSEE SHALL MAKE
14 THE WRITTEN POLICY AVAILABLE TO THE DEPARTMENT UPON REQUEST.

15 (5) ~~—(4)—~~ A requirement under this section to include a social
16 security number on an application does not apply to an applicant
17 who demonstrates he or she is exempt under law from obtaining a
18 social security number or to an applicant who for religious
19 convictions is exempt under law from disclosure of his or her
20 social security number under these circumstances. The department
21 shall inform the applicant of this possible exemption.

22 SEC. 16213. (1) AN INDIVIDUAL LICENSED UNDER THIS ARTICLE
23 SHALL KEEP AND MAINTAIN A RECORD FOR EACH PATIENT FOR WHOM HE OR
24 SHE HAS PROVIDED MEDICAL SERVICES, INCLUDING A FULL AND COMPLETE
25 RECORD OF TESTS AND EXAMINATIONS PERFORMED, OBSERVATIONS MADE, AND
26 TREATMENTS PROVIDED. UNLESS A LONGER RETENTION PERIOD IS OTHERWISE
27 REQUIRED UNDER FEDERAL OR STATE LAWS OR REGULATIONS OR BY GENERALLY

1 ACCEPTED STANDARDS OF MEDICAL PRACTICE, A LICENSEE SHALL KEEP AND
2 RETAIN EACH RECORD FOR A MINIMUM OF 7 YEARS FROM THE DATE OF
3 SERVICE TO WHICH THE RECORD PERTAINS. THE RECORDS SHALL 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
7 AUTHORIZED REPRESENTATIVE AS REQUIRED BY LAW. A LICENSEE MAY
8 DESTROY A RECORD THAT IS LESS THAN 7 YEARS OLD ONLY IF BOTH OF THE
9 FOLLOWING ARE SATISFIED:

10 (A) THE LICENSEE SENDS A WRITTEN NOTICE TO THE PATIENT AT THE
11 LAST KNOWN ADDRESS OF THAT PATIENT INFORMING THE PATIENT THAT THE
12 RECORD IS ABOUT TO BE DESTROYED, OFFERING THE PATIENT THE
13 OPPORTUNITY TO REQUEST A COPY OF THAT RECORD, AND REQUESTING THE
14 PATIENT'S WRITTEN AUTHORIZATION TO DESTROY THE RECORD.

15 (B) THE LICENSEE RECEIVES WRITTEN AUTHORIZATION FROM THE
16 PATIENT OR HIS OR HER AUTHORIZED REPRESENTATIVE AGREEING TO THE
17 DESTRUCTION OF THE RECORD.

18 (2) IF A LICENSEE IS UNABLE TO COMPLY WITH THIS SECTION, THE
19 LICENSEE SHALL EMPLOY OR CONTRACT, ARRANGE, OR ENTER INTO AN
20 AGREEMENT WITH ANOTHER HEALTH CARE PROVIDER, A HEALTH FACILITY OR
21 AGENCY, OR A MEDICAL RECORDS COMPANY TO PROTECT, MAINTAIN, AND
22 PROVIDE ACCESS TO THOSE RECORDS REQUIRED UNDER SUBSECTION (1).

23 (3) IF A LICENSEE OR REGISTRANT SELLS OR CLOSES HIS OR HER
24 PRACTICE, RETIRES FROM PRACTICE, OR OTHERWISE CEASES TO PRACTICE
25 UNDER THIS ARTICLE, THE LICENSEE OR THE PERSONAL REPRESENTATIVE OF
26 THE LICENSEE, IF THE LICENSEE IS DECEASED, SHALL NOT ABANDON THE
27 RECORDS REQUIRED UNDER THIS SECTION AND SHALL SEND A WRITTEN NOTICE

1 TO THE DEPARTMENT THAT SPECIFIES WHO WILL HAVE CUSTODY OF THE
2 MEDICAL RECORDS AND HOW A PATIENT MAY REQUEST ACCESS TO OR COPIES
3 OF HIS OR HER MEDICAL 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 AUTHORIZED
8 REPRESENTATIVE, TO THE PATIENT OR A SPECIFIC HEALTH FACILITY OR
9 AGENCY OR OTHER HEALTH CARE PROVIDER LICENSED UNDER ARTICLE 15.

10 (iii) A HEALTH CARE PROVIDER, A HEALTH FACILITY OR AGENCY, OR A
11 MEDICAL RECORDS COMPANY WITH WHICH THE LICENSEE HAD CONTRACTED OR
12 ENTERED INTO AN AGREEMENT TO PROTECT, MAINTAIN, AND PROVIDE ACCESS
13 TO THOSE RECORDS REQUIRED UNDER SUBSECTION (1).

14 (B) IN ACCORDANCE WITH SUBSECTION (1), AS LONG AS THE LICENSEE
15 OR THE PERSONAL REPRESENTATIVE OF THE LICENSEE, IF THE LICENSEE IS
16 DECEASED, SENDS A WRITTEN NOTICE TO THE LAST KNOWN ADDRESS OF EACH
17 PATIENT FOR WHOM HE OR SHE HAS PROVIDED MEDICAL SERVICES AND
18 RECEIVES WRITTEN AUTHORIZATION FROM THE PATIENT OR HIS OR HER
19 AUTHORIZED REPRESENTATIVE, DESTROY THE RECORDS REQUIRED UNDER
20 SUBSECTION (1). THE NOTICE SHALL PROVIDE THE PATIENT WITH 30 DAYS
21 TO REQUEST A COPY OF HIS OR HER RECORD OR TO DESIGNATE WHERE HE OR
22 SHE WOULD LIKE HIS OR HER MEDICAL RECORDS TRANSFERRED AND SHALL
23 REQUEST FROM THE PATIENT WITHIN 30 DAYS WRITTEN AUTHORIZATION FOR
24 THE DESTRUCTION OF HIS OR HER MEDICAL RECORDS. IF THE PATIENT FAILS
25 TO REQUEST A COPY OR TRANSFER OF HIS OR HER MEDICAL RECORDS OR TO
26 PROVIDE THE LICENSEE WITH WRITTEN AUTHORIZATION FOR THE
27 DESTRUCTION, THEN THE LICENSEE OR THE PERSONAL REPRESENTATIVE OF

1 THE LICENSEE SHALL NOT DESTROY THOSE RECORDS THAT ARE LESS THAN 7
2 YEARS OLD BUT MAY DESTROY, IN ACCORDANCE WITH SUBSECTION (4), THOSE
3 THAT ARE 7 YEARS OLD OR OLDER.

4 (4) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION OR FEDERAL
5 OR STATE LAWS AND REGULATIONS, RECORDS REQUIRED TO BE MAINTAINED
6 UNDER SUBSECTION (1) MAY BE DESTROYED OR OTHERWISE DISPOSED OF
7 AFTER BEING MAINTAINED FOR 7 YEARS. IF RECORDS MAINTAINED IN
8 ACCORDANCE WITH THIS SECTION ARE SUBSEQUENTLY DESTROYED OR
9 OTHERWISE DISPOSED OF, THOSE RECORDS SHALL BE SHREDDED,
10 INCINERATED, ELECTRONICALLY DELETED, OR OTHERWISE DISPOSED OF IN A
11 MANNER THAT ENSURES CONTINUED CONFIDENTIALITY OF THE PATIENT'S
12 HEALTH CARE INFORMATION AND ANY OTHER PERSONAL INFORMATION RELATING
13 TO THE PATIENT. IF RECORDS ARE DESTROYED OR OTHERWISE DISPOSED OF
14 AS PROVIDED UNDER THIS SUBSECTION, THE DEPARTMENT MAY TAKE ACTION
15 INCLUDING, BUT NOT LIMITED TO, CONTRACTING FOR OR MAKING OTHER
16 ARRANGEMENT TO ENSURE THAT THOSE RECORDS AND ANY OTHER CONFIDENTIAL
17 IDENTIFYING INFORMATION RELATED TO THE PATIENT ARE PROPERLY
18 DESTROYED OR DISPOSED OF TO PROTECT THE CONFIDENTIALITY OF
19 PATIENT'S HEALTH CARE INFORMATION AND ANY OTHER PERSONAL
20 INFORMATION RELATING TO THE PATIENT. BEFORE THE DEPARTMENT TAKES
21 ACTION IN ACCORDANCE WITH THIS SUBSECTION, THE DEPARTMENT, IF ABLE
22 TO IDENTIFY THE LICENSEE RESPONSIBLE FOR THE IMPROPER DESTRUCTION
23 OR DISPOSAL OF THE MEDICAL RECORDS AT ISSUE, SHALL SEND A WRITTEN
24 NOTICE TO THAT LICENSEE AT HIS OR HER LAST KNOWN ADDRESS OR PLACE
25 OF BUSINESS ON FILE WITH THE DEPARTMENT AND PROVIDE THE LICENSEE
26 WITH AN OPPORTUNITY TO PROPERLY DESTROY OR DISPOSE OF THOSE MEDICAL
27 RECORDS AS REQUIRED UNDER THIS SUBSECTION UNLESS A DELAY IN THE

1 PROPER DESTRUCTION OR DISPOSAL MAY COMPROMISE THE PATIENT'S
2 CONFIDENTIALITY. THE DEPARTMENT MAY ASSESS THE LICENSEE WITH THE
3 COSTS INCURRED BY THE DEPARTMENT TO ENFORCE THIS SUBSECTION.

4 (5) A PERSON WHO FAILS TO COMPLY WITH THIS SECTION IS SUBJECT
5 TO AN ADMINISTRATIVE FINE OF NOT MORE THAN \$10,000.00 IF THE
6 FAILURE WAS THE RESULT OF GROSS NEGLIGENCE OR WILLFUL AND WANTON
7 MISCONDUCT.

8 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE OR
9 CHANGE THE OWNERSHIP RIGHTS TO ANY MEDICAL RECORDS.

10 (7) 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 CARE PROVIDER OR HEALTH FACILITY OR AGENCY IN
19 ACCORDANCE WITH THIS SECTION.

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

1 RESPECT TO HIS OR HER MEDICAL RECORDS RELATING TO THAT CARE.

2 Sec. 20175. (1) A health facility or agency shall keep and
3 maintain a record for each patient, including a full and complete
4 record of tests and examinations performed, observations made,
5 treatments provided, and in the case of a hospital, the purpose of
6 hospitalization. UNLESS A LONGER RETENTION PERIOD IS OTHERWISE
7 REQUIRED UNDER FEDERAL OR STATE LAWS OR REGULATIONS OR BY GENERALLY
8 ACCEPTED STANDARDS OF MEDICAL PRACTICE, A HEALTH FACILITY OR AGENCY
9 SHALL KEEP AND RETAIN EACH RECORD FOR A MINIMUM OF 7 YEARS FROM THE
10 DATE OF SERVICE TO WHICH THE RECORD PERTAINS. A HEALTH FACILITY OR
11 AGENCY SHALL MAINTAIN THE RECORDS IN SUCH A MANNER AS TO PROTECT
12 THEIR INTEGRITY, TO ENSURE THEIR CONFIDENTIALITY AND PROPER USE,
13 AND TO ENSURE THEIR ACCESSIBILITY AND AVAILABILITY TO EACH PATIENT
14 OR HIS OR HER AUTHORIZED REPRESENTATIVE AS REQUIRED BY LAW. A
15 HEALTH FACILITY OR AGENCY MAY DESTROY A RECORD THAT IS LESS THAN 7
16 YEARS OLD ONLY IF BOTH OF THE FOLLOWING ARE SATISFIED:

17 (A) THE HEALTH FACILITY OR AGENCY SENDS A WRITTEN NOTICE TO
18 THE PATIENT AT THE LAST KNOWN ADDRESS OF THAT PATIENT INFORMING THE
19 PATIENT THAT THE RECORD IS ABOUT TO BE DESTROYED, OFFERING THE
20 PATIENT THE OPPORTUNITY TO REQUEST A COPY OF THAT RECORD, AND
21 REQUESTING THE PATIENT'S WRITTEN AUTHORIZATION TO DESTROY THE
22 RECORD.

23 (B) THE HEALTH FACILITY OR AGENCY RECEIVES WRITTEN
24 AUTHORIZATION FROM THE PATIENT OR HIS OR HER AUTHORIZED
25 REPRESENTATIVE AGREEING TO THE DESTRUCTION OF THE RECORD. EXCEPT AS
26 OTHERWISE PROVIDED UNDER FEDERAL OR STATE LAWS AND REGULATIONS,
27 RECORDS REQUIRED TO BE MAINTAINED UNDER THIS SUBSECTION MAY BE

1 DESTROYED OR OTHERWISE DISPOSED OF AFTER BEING MAINTAINED FOR 7
2 YEARS. IF RECORDS MAINTAINED IN ACCORDANCE WITH THIS SECTION ARE
3 SUBSEQUENTLY DESTROYED OR OTHERWISE DISPOSED OF, THOSE RECORDS
4 SHALL BE SHREDDED, INCINERATED, ELECTRONICALLY DELETED, OR
5 OTHERWISE DISPOSED OF IN A MANNER THAT ENSURES CONTINUED
6 CONFIDENTIALITY OF THE PATIENT'S HEALTH CARE INFORMATION AND ANY
7 OTHER PERSONAL INFORMATION RELATING TO THE PATIENT. IF RECORDS ARE
8 DESTROYED OR OTHERWISE DISPOSED OF AS PROVIDED UNDER THIS
9 SUBSECTION, THE DEPARTMENT MAY TAKE ACTION INCLUDING, BUT NOT
10 LIMITED TO, CONTRACTING FOR OR MAKING OTHER ARRANGEMENTS TO ENSURE
11 THAT THOSE RECORDS AND ANY OTHER CONFIDENTIAL IDENTIFYING
12 INFORMATION RELATED TO THE PATIENT ARE PROPERLY DESTROYED OR
13 DISPOSED OF TO PROTECT THE CONFIDENTIALITY OF PATIENT'S HEALTH CARE
14 INFORMATION AND ANY OTHER PERSONAL INFORMATION RELATING TO THE
15 PATIENT. BEFORE THE DEPARTMENT TAKES ACTION IN ACCORDANCE WITH THIS
16 SUBSECTION, THE DEPARTMENT, IF ABLE TO IDENTIFY THE HEALTH FACILITY
17 OR AGENCY RESPONSIBLE FOR THE IMPROPER DESTRUCTION OR DISPOSAL OF
18 THE MEDICAL RECORDS AT ISSUE, SHALL SEND A WRITTEN NOTICE TO THAT
19 HEALTH FACILITY OR AGENCY AT THE LAST KNOWN ADDRESS ON FILE WITH
20 THE DEPARTMENT AND PROVIDE THE HEALTH FACILITY OR AGENCY WITH AN
21 OPPORTUNITY TO PROPERLY DESTROY OR DISPOSE OF THOSE MEDICAL RECORDS
22 AS REQUIRED UNDER THIS SUBSECTION 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 is

1 subject to an administrative fine of \$10,000.00.

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

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

8 (4) Departmental officers and employees shall respect the
9 confidentiality of patient clinical records and shall not divulge
10 or disclose the contents of records in a manner that identifies an
11 individual except pursuant to court order **OR AS OTHERWISE**
12 **AUTHORIZED BY LAW.**

13 (5) A health facility or agency that employs, contracts with,
14 or grants privileges to a health professional licensed or
15 registered under article 15 shall report the following to the
16 department ~~of consumer and industry services~~ not more than 30
17 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.

1 (b) Restriction or acceptance of the surrender of the clinical
2 privileges of a licensee or registrant under either of the
3 following circumstances:

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

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

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

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

24 (7) For the purpose of reporting disciplinary actions under
25 this section, a health facility or agency shall include only the
26 following in the information provided:

27 (a) The name of the licensee or registrant against whom

1 disciplinary action has been taken.

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

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

4 (d) The date of the incident that is the basis for the
5 disciplinary action.

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

13 **SEC. 20175A. (1) IF A HEALTH FACILITY OR AGENCY IS UNABLE TO**
14 **COMPLY WITH SECTION 20175, THE HEALTH FACILITY OR AGENCY SHALL**
15 **EMPLOY OR CONTRACT, ARRANGE, OR ENTER INTO AN AGREEMENT WITH**
16 **ANOTHER HEALTH FACILITY OR AGENCY OR A MEDICAL RECORDS COMPANY TO**
17 **PROTECT, MAINTAIN, AND PROVIDE ACCESS TO THOSE RECORDS REQUIRED**
18 **UNDER SECTION 20175(1).**

19 **(2) IF A HEALTH FACILITY OR AGENCY CLOSES OR OTHERWISE CEASES**
20 **OPERATION, THE HEALTH FACILITY OR AGENCY SHALL NOT ABANDON THE**
21 **RECORDS REQUIRED TO BE MAINTAINED UNDER SECTION 20175(1) AND SHALL**
22 **SEND A WRITTEN NOTICE TO THE DEPARTMENT THAT SPECIFIES WHO WILL**
23 **HAVE CUSTODY OF THE MEDICAL RECORDS AND HOW A PATIENT MAY REQUEST**
24 **ACCESS TO OR COPIES OF HIS OR HER MEDICAL RECORDS AND SHALL DO**
25 **EITHER OF THE FOLLOWING:**

26 **(A) TRANSFER THE RECORDS REQUIRED UNDER SECTION 20175(1) TO**
27 **ANY OF THE FOLLOWING:**

1 (i) A SUCCESSOR HEALTH FACILITY OR AGENCY.

2 (ii) IF DESIGNATED BY THE PATIENT OR HIS OR HER AUTHORIZED
3 REPRESENTATIVE, TO THE PATIENT OR A SPECIFIC HEALTH FACILITY OR
4 AGENCY OR A HEALTH CARE PROVIDER LICENSED OR REGISTERED UNDER
5 ARTICLE 15.

6 (iii) A HEALTH FACILITY OR AGENCY OR A MEDICAL RECORDS COMPANY
7 WITH WHICH THE HEALTH FACILITY OR AGENCY HAD CONTRACTED OR ENTERED
8 INTO AN AGREEMENT TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO THOSE
9 RECORDS REQUIRED UNDER SECTION 20175(1).

10 (B) IN ACCORDANCE WITH SECTION 20175(1), AS LONG AS THE HEALTH
11 FACILITY OR AGENCY SENDS A WRITTEN NOTICE TO THE LAST KNOWN ADDRESS
12 OF EACH PATIENT FOR WHOM HE OR SHE HAS PROVIDED MEDICAL SERVICES
13 AND RECEIVES WRITTEN AUTHORIZATION FROM THE PATIENT OR HIS OR HER
14 AUTHORIZED REPRESENTATIVE, DESTROY THE RECORDS REQUIRED UNDER
15 SECTION 20175(1). THE NOTICE SHALL PROVIDE THE PATIENT WITH 30 DAYS
16 TO REQUEST A COPY OF HIS OR HER RECORD OR TO DESIGNATE WHERE HE OR
17 SHE WOULD LIKE HIS OR HER MEDICAL RECORDS TRANSFERRED AND SHALL
18 REQUEST FROM THE PATIENT WITHIN 30 DAYS WRITTEN AUTHORIZATION FOR
19 THE DESTRUCTION OF HIS OR HER MEDICAL RECORDS. IF THE PATIENT FAILS
20 TO REQUEST A COPY OR TRANSFER OF HIS OR HER MEDICAL RECORDS OR TO
21 PROVIDE THE HEALTH FACILITY OR AGENCY WITH WRITTEN AUTHORIZATION
22 FOR THE DESTRUCTION, THEN THE HEALTH FACILITY OR AGENCY SHALL NOT
23 DESTROY THOSE RECORDS THAT ARE LESS THAN 7 YEARS OLD BUT MAY
24 DESTROY, IN ACCORDANCE WITH SECTION 20175(1), THOSE THAT ARE 7
25 YEARS OLD OR OLDER.

26 (3) NOTHING IN THIS SECTION SHALL BE CONDUCTED TO CREATE OR
27 CHANGE THE OWNERSHIP RIGHTS TO ANY MEDICAL RECORDS.

1 (4) A PERSON THAT FAILS TO COMPLY WITH THIS SECTION IS SUBJECT
2 TO AN ADMINISTRATIVE FINE OF NOT MORE THAN \$10,000.00 IF THE
3 FAILURE WAS THE RESULT OF GROSS NEGLIGENCE OR WILLFUL AND WANTON
4 MISCONDUCT.

5 (5) AS USED IN THIS SECTION:

6 (A) "MEDICAL RECORD" OR "RECORD" MEANS INFORMATION, ORAL OR
7 RECORDED IN ANY FORM OR MEDIUM, THAT PERTAINS TO A PATIENT'S HEALTH
8 CARE, MEDICAL HISTORY, DIAGNOSIS, PROGNOSIS, OR MEDICAL CONDITION
9 AND THAT IS MAINTAINED BY A LICENSEE IN THE PROCESS OF PROVIDING
10 MEDICAL SERVICES.

11 (B) "MEDICAL RECORDS COMPANY" MEANS A PERSON WHO CONTRACTS FOR
12 OR AGREES TO PROTECT, MAINTAIN, AND PROVIDE ACCESS TO MEDICAL
13 RECORDS FOR A HEALTH FACILITY OR AGENCY IN ACCORDANCE WITH SECTION
14 20175.

15 (C) "PATIENT" MEANS AN INDIVIDUAL WHO RECEIVES OR HAS RECEIVED
16 HEALTH CARE FROM A HEALTH CARE PROVIDER OR HEALTH FACILITY OR
17 AGENCY. PATIENT INCLUDES A GUARDIAN, IF APPOINTED, AND A PARENT,
18 GUARDIAN, OR PERSON ACTING IN LOCO PARENTIS, IF THE INDIVIDUAL IS A
19 MINOR, UNLESS THE MINOR LAWFULLY OBTAINED HEALTH CARE WITHOUT THE
20 CONSENT OR NOTIFICATION OF A PARENT, GUARDIAN, OR OTHER PERSON
21 ACTING IN LOCO PARENTIS, IN WHICH CASE THE MINOR HAS THE EXCLUSIVE
22 RIGHT TO EXERCISE THE RIGHTS OF A PATIENT UNDER THIS SECTION WITH
23 RESPECT TO HIS OR HER MEDICAL RECORDS RELATING TO THAT CARE.