

# SENATE BILL No. 716

September 4, 2007, Introduced by Senators GEORGE, PATTERSON, SANBORN, JELINEK, JACOBS, BIRKHOLZ, KUIPERS, GARCIA, ALLEN, GLEASON, PAPPAGEORGE and CLARKE and referred to the Committee on Health Policy.

A bill to amend 2004 PA 47, entitled "Medical records access act," by amending section 3 (MCL 333.26263).

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

1       Sec. 3. As used in this act:

2       (a) "Authorized representative" means ~~either~~ **ANY** of the  
3 following:

4       (i) A person empowered by the patient by explicit written  
5 authorization to act on the patient's behalf to access, disclose,  
6 or consent to the disclosure of the patient's medical record, in  
7 accordance with this act.

8       (ii) If the patient is deceased, ~~his~~ **ANY OF THE FOLLOWING:**

9       **(A) HIS** or her personal representative. ~~or his~~

10       **(B) HIS** or her heirs at law. ~~or the~~

1           (C) **THE** beneficiary of the patient's life insurance policy, to  
2 the extent provided by section 2157 of the revised judicature act  
3 of 1961, 1961 PA 236, MCL 600.2157.

4           **(iii) FOR THE PURPOSE OF OBTAINING A COPY OF AN AUTOPSY REPORT**  
5 **REGARDING A DECEASED PATIENT, ANY OF THE FOLLOWING:**

6           **(A) THE DECEASED PATIENT'S SPOUSE.**

7           **(B) THE DECEASED PATIENT'S PERSONAL REPRESENTATIVE.**

8           **(C) THE PERSON WHO CONSENTED TO THE AUTOPSY OF THE DECEASED**  
9 **PATIENT PURSUANT TO SECTION 2855 OF THE PUBLIC HEALTH CODE, 1978 PA**  
10 **368, MCL 333.2855, OR PURSUANT TO A VALID DURABLE POWER OF ATTORNEY**  
11 **ISSUED IN THIS STATE OR ANOTHER STATE.**

12           (b) "Detroit consumer price index" means the most  
13 comprehensive index of consumer prices available for the Detroit  
14 area from the bureau of labor statistics of the United States  
15 department of labor.

16           (c) "Guardian" means an individual who is appointed under  
17 section 5306 of the estates and protected individuals code, 1998 PA  
18 386, MCL 700.5306, to the extent that the scope of the guardianship  
19 includes the authority to act on the individual's behalf with  
20 regard to his or her health care. Guardian includes an individual  
21 who is appointed as the guardian of a minor under section 5202 or  
22 5204 of the estates and protected individuals code, 1998 PA 386,  
23 MCL 700.5202 and 700.5204, or under the mental health code, 1974 PA  
24 258, MCL 330.1001 to 330.2106, to the extent that the scope of the  
25 guardianship includes the authority to act on the individual's  
26 behalf with regard to his or her health care.

27           (d) "Health care" means any care, service, or procedure

1 provided by a health care provider or health facility to diagnose,  
2 treat, or maintain a patient's physical condition, or that affects  
3 the structure or a function of the human body.

4 (e) "Health care provider" means a person who is licensed or  
5 registered or otherwise authorized under article 15 of the public  
6 health code, 1978 PA 368, MCL 333.16101 to 333.18838, to provide  
7 health care in the ordinary course of business or practice of a  
8 health profession. Health care provider does not include a person  
9 who provides health care solely through the sale or dispensing of  
10 drugs or medical devices or a psychiatrist, psychologist, social  
11 worker, or professional counselor who provides only mental health  
12 services.

13 (f) "Health facility" means a health facility or agency  
14 licensed under article 17 of the public health code, 1978 PA 368,  
15 MCL 333.20101 to 333.22260, or any other organized entity where a  
16 health care provider provides health care to patients.

17 (g) "Maintain", as related to medical records, means to hold,  
18 possess, preserve, retain, store, or control medical records.

19 (h) "Medicaid" means that term as defined in section 2701 of  
20 the public health code, 1978 PA 368, MCL 333.2701.

21 (i) "Medical record" means information oral or recorded in any  
22 form or medium that pertains to a patient's health care, medical  
23 history, diagnosis, prognosis, or medical condition and that is  
24 maintained by a health care provider or health facility in the  
25 process of **CARING FOR** the patient's health.

26 (j) "Medical records company" means a person who stores,  
27 locates, or copies medical records for a health care provider or

1 health facility under a contract or agreement with that health care  
2 provider or health facility and charges a fee for providing medical  
3 records to a patient or his or her authorized representative for  
4 that health care provider or health facility.

5 (k) "Medically indigent individual" means that term as defined  
6 ~~under~~**IN** section 106 of the social welfare act, 1939 PA 280, MCL  
7 400.106.

8 (l) "Medicare" means that term as defined in section 2701 of  
9 the public health code, 1978 PA 368, MCL 333.2701.

10 (m) "Minor" means an individual who is less than 18 years of  
11 age, but does not include an individual who is emancipated under  
12 section 4 of 1968 PA 293, MCL 722.4.

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

22 (o) "Person" means an individual, corporation, estate, trust,  
23 partnership, association, joint venture, government, governmental  
24 subdivision or agency, or other legal or commercial entity.

25 (p) "Personal representative" means that term as defined in  
26 section 1106 of the estates and protected individuals code, 1998 PA  
27 386, MCL 700.1106.

1           (q) "Third party payer" means a public or private health care  
2 payment or benefits program including, but not limited to, all of  
3 the following:

- 4           (i) A health insurer.
- 5           (ii) A nonprofit health care corporation.
- 6           (iii) A health maintenance organization.
- 7           (iv) A preferred provider organization.
- 8           (v) A nonprofit dental care corporation.
- 9           (vi) Medicaid or medicare.