

HOUSE BILL No. 5860

September 11, 2012, Introduced by Rep. Irwin and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 492a (MCL 750.492a), as amended by 1992 PA 210.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 492a. (1) Except as otherwise provided in subsection ~~(3)~~,
2 (4), a health care provider or other person, knowing that the
3 information is misleading or inaccurate, shall not intentionally,
4 willfully, or recklessly place or direct another to place in a
5 patient's medical record or chart misleading or inaccurate
6 information regarding the diagnosis, treatment, or cause of a
7 patient's condition. A violation of this subsection is punishable
8 as follows:

9 (a) A health care provider who intentionally or willfully
10 violates this subsection is guilty of a felony **PUNISHABLE BY**

1 IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN
2 \$5,000.00, OR BOTH.

3 (b) A health care provider who recklessly violates this
4 subsection is guilty of a misdemeanor ~~—~~punishable by imprisonment
5 for not more than 1 year ~~—~~or a fine of not more than \$1,000.00, or
6 both.

7 (c) A person other than a health care provider who
8 intentionally or willfully violates this subsection is guilty of a
9 misdemeanor ~~—~~punishable by imprisonment for not more than 1 year ~~—~~
10 or a fine of not more than \$1,000.00, or both.

11 (d) A person other than a health care provider who recklessly
12 violates this subsection is guilty of a misdemeanor **PUNISHABLE BY**
13 **IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN**
14 **\$500.00, OR BOTH.**

15 (2) Except as otherwise provided in subsection ~~(3)~~, ~~(4)~~, a
16 health care provider or other person shall not intentionally or
17 willfully alter or destroy or direct another to alter or destroy a
18 patient's medical records or charts for the purpose of concealing
19 his or her responsibility for the patient's injury, sickness, or
20 death. A health care provider who violates this subsection is
21 guilty of a felony. A person other than a health care provider who
22 violates this subsection is guilty of a misdemeanor punishable by
23 imprisonment for not more than 1 year ~~—~~or a fine of not more than
24 \$1,000.00, or both.

25 (3) **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4), A HEALTH**
26 **CARE PROVIDER OR OTHER PERSON SHALL NOT INTENTIONALLY OR WILLFULLY**
27 **FAIL TO PLACE INFORMATION IN A PATIENT'S MEDICAL RECORDS OR CHARTS**

1 FOR THE PURPOSE OF CONCEALING HIS OR HER RESPONSIBILITY FOR THE
2 PATIENT'S INJURY, SICKNESS, OR DEATH. A HEALTH CARE PROVIDER WHO
3 VIOLATES THIS SECTION IS GUILTY OF A FELONY PUNISHABLE BY
4 IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN
5 \$5,000.00, OR BOTH. A PERSON OTHER THAN A HEALTH CARE PROVIDER WHO
6 VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
7 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
8 \$1,000.00, OR BOTH.

9 (4) ~~(3)~~ Subsections (1), ~~and (2)~~, AND (3) do not apply to
10 either of the following:

11 (a) Destruction of a patient's original medical record or
12 chart if all of the information contained in or on the medical
13 record or chart is otherwise retained by means of mechanical or
14 electronic recording, chemical reproduction, or other equivalent
15 techniques that accurately reproduce all of the information
16 contained in or on the original or by reproduction pursuant to the
17 records media act that accurately reproduces all of the information
18 contained in or on the original.

19 (b) Supplementation of information or correction of an error
20 in a patient's medical record or chart in a manner that reasonably
21 discloses that the supplementation or correction was performed and
22 that does not conceal or alter prior entries.

23 (5) ~~(4)~~ This section does not create or provide a basis for a
24 civil cause of action for damages.