

HOUSE BILL NO. 4370

March 14, 2019, Introduced by Reps. Whiteford, Pagan, Griffin, Glenn, Alexander, Witwer, Pohutsky, Brixie, Clemente, Ellison, Hoadley, Hood, Hammoud, Guerra, Garza, Manoogian, LaGrand, Rendon, Bolden, Kuppa, Sabo, Elder, Koleszar, Sowerby, Camilleri, Hertel, Kennedy, Sneller, Tyrone Carter, Whitsett, Neeley, Shannon, Hauck, Tate, Lasinski, Greig, Byrd, Garrett, Jones, Warren and Gay-Dagnogo and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16213, 16299, 20175, 20175a, and 20199 (MCL
333.16213, 333.16299, 333.20175, 333.20175a, and 333.20199),
sections 16213 and 20175a as added and section 20175 as amended by
2006 PA 481 and section 16299 as amended by 2012 PA 499, 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
2 shall keep and maintain a record for each patient for whom he or
3 she has provided medical services, including a full and complete
4 record of tests and examinations performed, observations made, and
5 treatments provided. **If a medical service provided to a patient on**
6 **or after the effective date of the amendatory act that added this**
7 **sentence involves the vaginal or anal penetration of the patient,**
8 **an individual licensed under this article shall expressly state in**
9 **the patient's record that vaginal or anal penetration was performed**
10 **unless the medical service meets any of the circumstances described**
11 **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**



1 sexual health.

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

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

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

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

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

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

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

27 (5) ~~(2)~~**If a licensee is unable to comply with this section,**
28 the licensee shall employ or contract, arrange, or enter into an
29 agreement with another health care provider, a health facility or



1 agency, or a medical records company to protect, maintain, and
 2 provide access to those records required under subsection (1).

3 (6) ~~(3)~~—If a licensee or registrant sells or closes his or her
 4 practice, retires from practice, or otherwise ceases to practice
 5 under this article, the licensee or the personal representative of
 6 the licensee, if the licensee is deceased, shall not abandon the
 7 records required under this section and shall send a written notice
 8 to the department that specifies who will have custody of the
 9 medical records and how a patient may request access to or copies
 10 of his or her medical 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 authorized
 15 representative, to the patient or a specific health facility or
 16 agency or other health care provider licensed under article 15.

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

21 (b) ~~In~~ **Except as otherwise provided in subsection (7), and in**
 22 **accordance with subsection (1), subsections (1) to (4),** as long as
 23 the licensee or the personal representative of the licensee, if the
 24 licensee is deceased, sends a written notice to the last known
 25 address of each patient for whom he or she has provided medical
 26 services and receives written authorization from the patient or his
 27 or her authorized representative, destroy the records required
 28 under subsection (1). The notice ~~shall~~ **must** provide the patient
 29 with 30 days to request a copy of his or her record or to designate



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

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

14 **(8) ~~(4)~~**Except as otherwise provided under this section or
 15 federal or state laws and regulations, records required to be
 16 maintained under subsection (1), **other than a record described in**
 17 **subsection (2) (b),** may be destroyed or otherwise disposed of after
 18 being maintained for 7 years **and records described in subsection**
 19 **(2) (b) may be destroyed or otherwise disposed of after being**
 20 **maintained for 15 years.** If records maintained in accordance with
 21 this section are subsequently destroyed or otherwise disposed of,
 22 those records ~~shall~~**must** be shredded, incinerated, electronically
 23 deleted, or otherwise disposed of in a manner that ensures
 24 continued confidentiality of the patient's health care information
 25 and any other personal information relating to the patient. If
 26 records are **not** destroyed or otherwise disposed of as provided
 27 under this subsection, the department may take action including,
 28 but not limited to, contracting for or making other arrangements to
 29 ensure that those records and any other confidential identifying

1 information related to the patient are properly destroyed or
 2 disposed of to protect the confidentiality of patient's health care
 3 information and any other personal information relating to the
 4 patient. Before the department takes action in accordance with this
 5 subsection, the department, if able to identify the licensee
 6 responsible for the improper destruction or disposal of the medical
 7 records at issue, shall send a written notice to that licensee at
 8 his or her last known address or place of business on file with the
 9 department and provide the licensee with an opportunity to properly
 10 destroy or dispose of those medical records as required under this
 11 subsection unless a delay in the proper destruction or disposal may
 12 compromise the patient's confidentiality. The department may assess
 13 the licensee with the costs incurred by the department to enforce
 14 this subsection.

15 **(9) ~~(5) A~~ Except as otherwise provided in section 16213a, a**
 16 **person ~~who~~ that** fails to comply with this section is subject to an
 17 administrative fine of not more than \$10,000.00 if the failure was
 18 the result of gross negligence or willful and wanton misconduct.

19 **(10) ~~(6)~~** Nothing in this section shall be construed to create
 20 or change the ownership rights to any medical records.

21 **(11) ~~(7)~~** As used in this section:

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

27 (b) "Medical records company" means a person who contracts for
 28 or agrees to protect, maintain, and provide access to medical
 29 records for a health care provider or health facility or agency in



1 accordance with this section.

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

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

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

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

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

23 (2) A person that violates section 16213(1) regarding the
24 documentation of a medical service involving vaginal or anal
25 penetration in a patient's medical record is guilty of a
26 misdemeanor punishable by imprisonment for not more than 180 days
27 or a fine of \$5,000.00, or both, if the violation was the result of
28 gross negligence.

29 (3) A person that intentionally violates section 16213(1)



1 regarding the documentation of a medical service involving vaginal
2 or anal penetration in a patient's medical record is guilty of a
3 felony punishable by imprisonment for not more than 2 years or a
4 fine of not more than \$7,500.00, or both.

5 (4) This section does not limit any other sanction or
6 additional action a disciplinary subcommittee is authorized to
7 impose or take.

8 Sec. 16299. (1) Except as otherwise provided in subsection
9 (2), a person who violates or aids or abets another in a violation
10 of this article, other than those matters described in sections
11 16294 and 16296, is guilty of a misdemeanor punishable as follows:

12 (a) For the first offense, by imprisonment for not more than
13 90 days ~~or~~ a fine of not more than \$100.00, or both.

14 (b) For the second or subsequent offense, by imprisonment for
15 not less than 90 days nor more than 6 months ~~or~~ a fine of not
16 less than \$200.00 nor more than \$500.00, or both.

17 (2) Subsection (1) does not apply to a violation of section
18 17015, 17015a, 17017, 17515, or 17517, **or to a violation of this**
19 **article for which another criminal penalty is specifically**
20 **prescribed.**

21 Sec. 16429. (1) The board shall create a document that
22 provides guidance to licensees on generally accepted standards of
23 practice for services involving vaginal or anal penetration,
24 including internal pelvic floor treatments. In creating the
25 document described in this subsection, the board shall consult with
26 appropriate professional associations and other interested
27 stakeholders.

28 (2) The board shall make the document required under
29 subsection (1) publicly available by 1 year after the effective



1 date of the amendatory act that added this section.

2 Sec. 17029. (1) The board shall create a document that
3 provides guidance to licensees on generally accepted standards of
4 medical practice for medical services involving vaginal or anal
5 penetration, including internal pelvic floor treatments but
6 excluding medical services that primarily relate to a patient's
7 urological, gastrointestinal, reproductive, gynecological, or
8 sexual health, that are performed to measure a patient's
9 temperature, or that are performed for the purpose of rectally
10 administering a drug or medicine. In creating the document
11 described in this subsection, the board shall consult with
12 appropriate professional associations and other interested
13 stakeholders.

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

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

29 (2) The board shall make the document required under



1 subsection (1) publicly available by 1 year after the effective
2 date of the amendatory act that added this section.

3 Sec. 17829. (1) The board shall create a document that
4 provides guidance to licensees on generally accepted standards of
5 practice for services involving vaginal or anal penetration,
6 including internal pelvic floor treatments. In creating the
7 document described in this subsection, the board shall consult with
8 appropriate professional associations and other interested
9 stakeholders.

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

13 Sec. 17909. (1) The board shall create a document that
14 provides guidance to licensees on generally accepted standards of
15 practice for services involving vaginal or anal penetration,
16 including internal pelvic floor treatments. In creating the
17 document 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. 20175. (1) A health facility or agency shall keep and
24 maintain a record for each patient, including a full and complete
25 record of tests and examinations performed, observations made,
26 treatments provided, and in the case of a hospital, the purpose of
27 hospitalization. If a medical service provided to a patient on or
28 after the effective date of the amendatory act that added this
29 sentence involves the vaginal or anal penetration of the patient, a



1 health facility or agency shall ensure that the patient's medical
2 record expressly states that vaginal or anal penetration was
3 performed unless the medical service meets any of the circumstances
4 described in subsection (2) (b) (i) (A), (B), (C), or (D).

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

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

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

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

20 (A) A medical service that primarily relates to the patient's
21 urological, gastrointestinal, reproductive, gynecological, or
22 sexual health.

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

29 (C) A medical service performed for the purpose of rectally



1 administering a drug or medicine.

2 (D) A medical service performed to measure a patient's
3 temperature.

4 (ii) The patient has filed a complaint with the health facility
5 or agency alleging sexual misconduct by an individual who is
6 employed by, under contract to, or granted privileges by the health
7 facility or agency. As used in this subparagraph, "sexual
8 misconduct" means the conduct described in section 90, 136, 145a,
9 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal
10 code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b,
11 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g,
12 regardless of whether the conduct resulted in a criminal
13 conviction.

14 (3) A health facility or agency shall maintain the records
15 required under subsection (1) in such a manner as to protect their
16 integrity, to ensure their confidentiality and proper use, and to
17 ensure their accessibility and availability to each patient or his
18 or her authorized representative as required by law.

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

23 (a) The health facility or agency sends a written notice to
24 the patient at the last known address of that patient informing the
25 patient that the record is about to be destroyed, offering the
26 patient the opportunity to request a copy of that record, and
27 requesting the patient's written authorization to destroy the
28 record.

29 (b) The health facility or agency receives written

1 authorization from the patient or his or her authorized
2 representative agreeing to the destruction of the record.

3 (5) Except as otherwise provided under federal or state laws
4 and regulations, records required to be maintained under ~~this~~
5 subsection (1), **other than a record described in subsection (2) (b) ,**
6 may be destroyed or otherwise disposed of after being maintained
7 for 7 years, **and records described in subsection (2) (b) may be**
8 **destroyed or otherwise disposed of after being maintained for 15**
9 **years.** If records maintained in accordance with this section are
10 subsequently destroyed or otherwise disposed of, those records
11 ~~shall~~**must** be shredded, incinerated, electronically deleted, or
12 otherwise disposed of in a manner that ensures continued
13 confidentiality of the patient's health care information and any
14 other personal information relating to the patient. If records are
15 **not** destroyed or otherwise disposed of as provided under this
16 subsection **or subsection (4)**, the department may take action
17 including, but not limited to, contracting for or making other
18 arrangements to ensure that those records and any other
19 confidential identifying information related to the patient are
20 properly destroyed or disposed of to protect the confidentiality of
21 patient's health care information and any other personal
22 information relating to the patient. Before the department takes
23 action in accordance with this subsection, the department, if able
24 to identify the health facility or agency responsible for the
25 improper destruction or disposal of the medical records at issue,
26 shall send a written notice to that health facility or agency at
27 the last known address on file with the department and provide the
28 health facility or agency with an opportunity to properly destroy
29 or dispose of those medical records as required under this

subsection **or subsection (4)**, unless a delay in the proper destruction or disposal may compromise the patient's confidentiality. The department may assess the health facility or agency with the costs incurred by the department to enforce this subsection. In addition to the sanctions set forth in section 20165, a hospital that fails to comply with this subsection **or subsection (4)** is subject to an administrative fine of \$10,000.00.

(6) A health facility or agency shall only destroy a record described in subsection (2)(b) in accordance with subsection (5).

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

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

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

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

(a) Disciplinary action taken by the health facility or agency against a health professional licensed or registered under article 15 based on the licensee's or registrant's professional competence, disciplinary action that results in a change of employment status,



1 or disciplinary action based on conduct that adversely affects the
2 licensee's or registrant's clinical privileges for a period of more
3 than 15 days. As used in this subdivision, "adversely affects"
4 means the reduction, restriction, suspension, revocation, denial,
5 or failure to renew the clinical privileges of a licensee or
6 registrant by a health facility or agency.

7 (b) Restriction or acceptance of the surrender of the clinical
8 privileges of a licensee or registrant under either of the
9 following circumstances:

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

12 (ii) There is an agreement in which the health facility or
13 agency agrees not to conduct an investigation into the licensee's
14 or registrant's alleged professional incompetence or improper
15 professional conduct.

16 (c) A case in which a health professional resigns or
17 terminates a contract or whose contract is not renewed instead of
18 the health facility **or agency** taking disciplinary action against
19 the health professional.

20 (11) ~~(6)~~ Upon request by another health facility or agency
21 seeking a reference for purposes of changing or granting staff
22 privileges, credentials, or employment, a health facility or agency
23 that employs, contracts with, or grants privileges to health
24 professionals licensed or registered under article 15 shall notify
25 the requesting health facility or agency of any disciplinary or
26 other action reportable under subsection ~~(5)~~ **(10)** that it has taken
27 against a health professional licensed or registered under article
28 15 and employed by, under contract to, or granted privileges by the
29 health facility or agency.



1 (12) ~~(7)~~—For the purpose of reporting disciplinary actions
2 under this section, a health facility or agency shall include only
3 the following in the information provided:

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

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

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

8 (d) The date of the incident that is the basis for the
9 disciplinary action.

10 (13) ~~(8)~~—The records, data, and knowledge collected for or by
11 individuals or committees assigned a professional review function
12 in a health facility or agency, or an institution of higher
13 education in this state that has colleges of osteopathic and human
14 medicine, are confidential, ~~shall~~**must** be used only for the
15 purposes provided in this article, are not public records, and are
16 not subject to court subpoena.

17 Sec. 20175a. (1) If a health facility or agency is unable to
18 comply with section 20175, the health facility or agency shall
19 employ or contract, arrange, or enter into an agreement with
20 another health facility or agency or a medical records company to
21 protect, maintain, and provide access to those records required
22 under section 20175(1).

23 (2) If a health facility or agency closes or otherwise ceases
24 operation, the health facility or agency shall not abandon the
25 records required to be maintained under section 20175(1) and shall
26 send a written notice to the department that specifies who will
27 have custody of the medical records and how a patient may request
28 access to or copies of his or her medical records and shall do
29 either of the following:



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

3 (i) A successor health facility or agency.

4 (ii) If designated by the patient or his or her authorized
5 representative, to the patient or a specific health facility or
6 agency or a health care provider licensed or registered under
7 article 15.

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

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

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

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

7 (5) As used in this section:

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

13 (b) "Medical records company" means a person who contracts for
14 or agrees to protect, maintain, and provide access to medical
15 records for a health facility or agency in accordance with section
16 20175.

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

26 **Sec. 20175b. (1) Except as otherwise provided in subsections**
27 **(2) and (3), a person that violates section 20175(1) regarding the**
28 **documentation of a medical service involving vaginal or anal**
29 **penetration in a patient's medical record is subject to an**



1 administrative fine or guilty of a crime as follows:

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

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

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

9 (2) A person that violates section 20175(1) regarding the
10 documentation of a medical service involving vaginal or anal
11 penetration in a patient's medical record is guilty of a
12 misdemeanor punishable by imprisonment for not more than 180 days
13 or a fine of \$10,000.00, or both, if the violation was the result
14 of gross negligence.

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

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

22 Sec. 20199. (1) Except as **otherwise** provided in subsection (2)
23 ~~or section 20142, or this article~~, a person ~~who~~**that** violates this
24 article or a rule promulgated or an order issued under this article
25 is guilty of a misdemeanor, punishable by **a** fine of not more than
26 \$1,000.00 for each day the violation continues or, in case of a
27 violation of sections 20551 to 20554, a fine of not more than
28 \$1,000.00 for each occurrence.

29 (2) A person ~~who~~**that** violates sections 20181 to 20184 is



1 guilty of a misdemeanor ~~—~~punishable by imprisonment for not more
2 than 6 months ~~—~~or a fine of not more than \$2,000.00, or both.

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

