

HOUSE BILL NO. 4242

March 13, 2025, Introduced by Reps. Thompson, BeGole, Maddock, St. Germaine, Rigas, Martin, DeBoyer, Greene, Kunse, Alexander, Beson, Wortz, Jenkins-Arno, Fox, Meerman, Smit and Bruck and referred to Committee on Government Operations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16213 and 20175a (MCL 333.16213 and
333.20175a), as amended by 2023 PA 62.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16213. (1) A licensee shall keep and maintain a record
2 for each patient for whom the licensee has provided medical
3 services, including a full and complete record of tests and
4 examinations performed, observations made, and treatments provided.
5 If a medical service provided to a patient on or after ~~the~~

~~effective date of the amendatory act that added this sentence~~
October 10, 2023 involves the vaginal or anal penetration of the patient, a licensee shall expressly state in the patient's record that vaginal or anal penetration was performed unless the medical service meets any of the circumstances described in subsection (2) (b) (i), (ii), (iii), or (iv).

(2) Unless a longer retention period is otherwise required under federal or state laws or regulations or by generally accepted standards of medical practice, a licensee shall keep and retain each record required under subsection (1) as follows:

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

(b) If the record is for a medical service performed on or after ~~the effective date of the amendatory act that added this subdivision~~ **October 10, 2023** that involves the vaginal or anal penetration of a patient, for a minimum of 15 years from the date of service to which the record pertains. This subdivision does not apply to a record for any of the following:

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

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

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

1 (iv) A medical service performed to measure a patient's
2 temperature.

3 (3) The records 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 the patient's
7 authorized representative as required by law.

8 (4) Except as otherwise provided in subsection (7), a licensee
9 may destroy a record required under subsection (1) that is less
10 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 the patient's authorized representative agreeing to the
18 destruction of the record.

19 (5) If a licensee is unable to comply with this section, the
20 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) If a licensee ~~or registrant~~ sells or closes the licensee's
25 ~~or registrant's~~ practice, retires from practice, or otherwise
26 ceases to practice under this article, the licensee or the personal
27 representative of the licensee, if the licensee is deceased, shall
28 not abandon the records required under this section and shall send
29 a written notice to the department that specifies who will have

1 custody of the medical records and how a patient may request access
2 to or copies of the patient's medical records and shall do either
3 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 the patient's 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) Except as otherwise provided in subsection (7), and in
15 accordance with subsections (1) to (4), as long as the licensee or
16 the personal representative of the licensee, if the licensee is
17 deceased, sends a written notice to the last known address of each
18 patient for whom the licensee has provided medical services and
19 receives written authorization from the patient or the patient's
20 authorized representative, destroy the records required under
21 subsection (1). The notice must provide the patient with 30 days to
22 request a copy of the patient's records or to designate where the
23 patient would like the patient's medical records transferred and
24 must request from the patient within 30 days written authorization
25 for the destruction of the patient's medical records. Except as
26 otherwise provided in subsection (7), if the patient fails to
27 request a copy or transfer of the patient's medical records or to
28 provide the licensee with written authorization for the
29 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 (8), those
3 that are 7 years old or older.

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

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

1 address or place of business on file with the department and
 2 provide the licensee with an opportunity to properly destroy or
 3 dispose of those medical records as required under this subsection
 4 unless a delay in the proper destruction or disposal may compromise
 5 the patient's confidentiality. The department may assess the
 6 licensee with the costs incurred by the department to enforce this
 7 subsection.

8 **(9) If a licensee uses an off-site physical or virtual**
 9 **environment, including through a medical records company, to**
 10 **maintain the records required under subsection (1), the licensee**
 11 **shall ensure that the off-site physical or virtual environment is**
 12 **physically maintained in a state or in a province of Canada.**

13 **(10)** ~~(9)~~ Except as otherwise provided in section 16213a, a
 14 person that fails to comply with this section is subject to an
 15 administrative fine of not more than \$10,000.00 if the failure was
 16 the result of gross negligence or willful and wanton misconduct.

17 **(11)** ~~(10) Nothing in this section shall~~ **This section must not**
 18 be construed to create or change the ownership rights to any
 19 medical records.

20 **(12)** ~~(11)~~ As used in this section:

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

26 (b) "Medical records company" means a person ~~who~~ **that**
 27 contracts for or agrees to protect, maintain, and provide access to
 28 medical records for a health care provider or health facility or
 29 agency in accordance with this section.

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

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

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

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

(i) A successor health facility or agency.

(ii) If designated by the patient or the patient's authorized representative, to the patient or a specific health facility or agency or a health care provider licensed or registered under article 15.

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

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

23 **(3) If a health facility or agency uses an off-site physical**
24 **or virtual environment, including through a medical records**
25 **company, to maintain the records required under section 20175(1),**
26 **the health facility or agency shall ensure that the off-site**
27 **physical or virtual environment is physically maintained in a state**
28 **or in a province of Canada.**

29 **(4) ~~(3) Nothing in this~~ This section shall ~~must not~~ be**

1 construed to create or change the ownership rights to any medical
2 records.

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

7 **(6)** ~~(5)~~—As used in this section **and section 20175:**

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~~**that**
14 contracts for or agrees to protect, maintain, and provide access to
15 medical records for a health facility or agency in accordance with
16 section 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 the minor's medical records relating to that care.

26 **(7)** ~~(6)~~—This section does not apply to a health facility or
27 agency that is a health maintenance organization.