

Act No. 124  
Public Acts of 2008  
Approved by the Governor  
May 8, 2008  
Filed with the Secretary of State  
May 9, 2008  
EFFECTIVE DATE: May 9, 2008

**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

**Introduced by Senators George, Patterson, Sanborn, Jelinek, Jacobs, Birkholz, Kuipers, Garcia, Allen,  
Gleason, Pappageorge and Clarke**

# **ENROLLED SENATE BILL No. 716**

AN ACT to amend 2004 PA 47, entitled "An act to provide for and to regulate access to and disclosure of medical records; to prescribe powers and duties of certain state agencies and departments; to establish fees; to prescribe administrative sanctions; and to provide remedies," by amending section 3 (MCL 333.26263).

*The People of the State of Michigan enact:*

Sec. 3. As used in this act:

(a) "Authorized representative" means any of the following:

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

(ii) If the patient is deceased, any of the following:

(A) His or her personal representative.

(B) His or her heirs at law including, but not limited to, his or her spouse.

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

(iii) For the purpose of obtaining a copy of an autopsy report regarding a deceased patient, any of the following:

(A) The deceased patient's heirs at law including, but not limited to, the deceased patient's spouse.

(B) The deceased patient's personal representative.

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

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

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

(d) "Health care" means any care, service, or procedure provided by a health care provider or health facility to diagnose, treat, or maintain a patient's physical condition, or that affects the structure or a function of the human body.

(e) "Health care provider" means a person who is licensed or registered or otherwise authorized under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, to provide health care in the ordinary course of

business or practice of a health profession. Health care provider does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices or a psychiatrist, psychologist, social worker, or professional counselor who provides only mental health services.

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

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

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

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

(j) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider or health facility under a contract or agreement with that health care provider or health facility and charges a fee for providing medical records to a patient or his or her authorized representative for that health care provider or health facility.

(k) "Medically indigent individual" means that term as defined in section 106 of the social welfare act, 1939 PA 280, MCL 400.106.

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

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

(n) "Patient" means an individual who receives or has received health care from a health care provider or health facility. 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 act with respect to those medical records relating to that care.

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

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

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

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

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor