

SUBSTITUTE FOR
HOUSE BILL NO. 6026

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 7403a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 7403A. (1) A PERSON SHALL NOT FRAUDULENTLY OBTAIN OR
2 ATTEMPT TO OBTAIN A CONTROLLED SUBSTANCE OR A PRESCRIPTION FOR A
3 CONTROLLED SUBSTANCE FROM A HEALTH CARE PROVIDER.

4 (2) THE FOLLOWING PRIVILEGES DO NOT APPLY TO MEDICAL RECORDS
5 OR INFORMATION RELEASED OR MADE AVAILABLE UNDER SUBSECTION (1):

6 (A) THE PHYSICIAN-PATIENT PRIVILEGE CREATED IN SECTION 2157 OF
7 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2157.

8 (B) THE DENTIST-PATIENT PRIVILEGE CREATED IN SECTION 16648.

9 (C) ANY OTHER HEALTH PROFESSIONAL-PATIENT PRIVILEGE CREATED OR
10 RECOGNIZED BY LAW.

1 (3) TO THE EXTENT NOT PROTECTED BY THE IMMUNITY CONFERRED BY
2 1964 PA 170, MCL 691.1401 TO 691.1419, AN INDIVIDUAL WHO IN GOOD
3 FAITH PROVIDES ACCESS TO MEDICAL RECORDS OR INFORMATION UNDER THIS
4 SECTION IS IMMUNE FROM CIVIL OR ADMINISTRATIVE LIABILITY ARISING
5 FROM THAT CONDUCT, UNLESS THE CONDUCT WAS GROSS NEGLIGENCE OR
6 WILLFUL AND WANTON MISCONDUCT.

7 (4) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME AS
8 FOLLOWS:

9 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B) AND SUBSECTION (5),
10 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
11 FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR
12 BOTH.

13 (B) A PERSON WHO OBTAINS OR ATTEMPTS TO OBTAIN A CONTROLLED
14 SUBSTANCE OR A PRESCRIPTION FOR A CONTROLLED SUBSTANCE IN VIOLATION
15 OF THIS SECTION USING BENEFITS UNDER MEDICARE OR MEDICAID IS GUILTY
16 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR
17 A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

18 (5) THE COURT MAY PLACE A PERSON WHO HAS NOT PREVIOUSLY BEEN
19 CONVICTED OF VIOLATING THIS SECTION ON PROBATION SUBJECT TO THE
20 TERMS AND CONDITIONS SET FORTH IN SECTION 7411.

21 (6) THE COURT MAY ORDER ANY PERSON CONVICTED OF VIOLATING THIS
22 SECTION TO UNDERGO SCREENING AND ASSESSMENT BY A PERSON OR AGENCY
23 DESIGNATED BY THE BUREAU OF SUBSTANCE ABUSE AND ADDICTION SERVICES,
24 TO DETERMINE WHETHER THE PERSON IS LIKELY TO BENEFIT FROM
25 REHABILITATIVE SERVICES, INCLUDING ALCOHOL OR DRUG EDUCATION AND
26 ALCOHOL OR DRUG TREATMENT PROGRAMS. AS PART OF THE SENTENCE IMPOSED
27 UNDER THIS SECTION, THE COURT MAY ORDER THE PERSON TO PARTICIPATE

1 IN AND SUCCESSFULLY COMPLETE 1 OR MORE APPROPRIATE REHABILITATIVE
2 PROGRAMS. THE PERSON SHALL PAY FOR THE COSTS OF THE SCREENING,
3 ASSESSMENT, AND REHABILITATIVE SERVICES. FAILURE TO COMPLETE A
4 PROGRAM SHALL BE CONSIDERED A VIOLATION OF THE TERMS OF THE
5 PROBATION.

6 (7) THIS SECTION DOES NOT PROHIBIT THE PERSON FROM BEING
7 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION OF
8 LAW ARISING OUT OF THE VIOLATION OF THIS SECTION.

9 (8) AS USED IN THIS SECTION, "HEALTH CARE PROVIDER" MEANS THAT
10 TERM AS DEFINED IN SECTION 9206.