

Medical Record Destruction
Michigan Senate Bill No. 465; Effective 12/29/06)

- Applies to licensees (e.g., license for practice of health professions) and health facilities.
- Maintaining Medical Records:
 - Licensees and health facilities are required to keep and maintain a record for each patient who has received medical services, including a full and complete record of tests and examinations performed, observations made, and treatment provided (plus hospital's must document the purpose of the hospitalization);
 - •Medical records must be kept and maintained for a minimum of 7 years from the date of service (unless a longer retention period is required by federal or state laws / regulations or by generally accepted standards of medical practice); and
 - Medical records must be maintained in a manner to protect their integrity, to ensure confidentiality and proper use, and to ensure their accessibility and availability to each patient and/or their authorized representative or as required by law.
- Criteria for Destroying a Medical Record that is Less Than 7 Years Old. A medical record that is less than 7 years old may be destroyed only if both of the following are satisfied:
 1. Licensee / health facility sends a written notice to the patient at the last known address informing the patient that the record is about to be destroyed, offering the patient the opportunity to request a copy of that record within 30 days, and requesting that patient's written authorization to destroy the record; and
 2. Licensee / health facility receives written authorization from the patient or his or her authorized representative agreeing to the destruction of the record.

If a licensee / health facility is unable to comply with the above, it must employ or contract, arrange, or enter into an agreement with another health care provider, health care facility or agency, or a medical record company to protect, maintain, and provide access to those records.

- Licensees & Health Facilities Who Sells, Closes, Retires or Otherwise Ceases to Practice:
 - Medical records cannot be abandoned;
 - Must send a written notice to the Department of Community Health that specifies who will have custody of the medical records and how a patient may request access to or copies of their medical records and shall do either of the following:
 - Transfer the records to a successor provider / health facility or agency;
 - If requested by the patient, to the patient or a specific health facility or agency or health care provider; or
 - Contract with a health care provider, a health facility or agency, or a medical records company to protect, maintain, and provide access to those records.
- Method of Destruction:

When medical records are subsequently destroyed or otherwise disposed of, those records must be:

 - Shredded;
 - Incinerated;
 - Electronically deleted; or
 - Otherwise disposed of in a manner that ensures continued confidentiality of the patient's health care information and any other personal information relating to the patient.
- Penalty for Failure to Comply:

A person [or hospital] who fails to comply with this Act is subject to an administrative fine of not more than \$10,000 if the failure was the result of gross negligence or willful and wanton misconduct.
- Hospital Only - Wrongfully Altered or Destroyed Records:
 - A hospital must take precautions to assure that the records are not wrongfully altered or destroyed.
 - •A hospital that fails to comply with the above is subject to an administrative fine of \$10,000.