

**HIPAA PRIVACY RULE  
PREEMPTION ANALYSIS MATRIX  
FOR  
THE MICHIGAN MEDICAL RECORDS  
ACCESS ACT,  
PUBLIC ACT 47 OF 2004\***

**Prepared by the Michigan State Bar Health Care Law Section  
and  
Michigan Society of Health Care Attorneys**

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**\*NOTE TO USERS OF THE HIPAA PREEMPTION ANALYSIS MATRIX FOR  
THE MICHIGAN MEDICAL RECORDS ACCESS ACT, PUBLIC ACT 47 OF 2004**

The HIPAA Preemption Analysis Matrix for the Michigan Medical Records Access Act, Public Act 47 of 2004 (the "Matrix") is intended to serve as a preliminary research tool for attorneys faced with a HIPAA preemption issue with respect to Michigan law. The Matrix should be viewed as a first-tier resource to obtain a perspective on a HIPAA preemption issue with respect to Michigan law; it is not intended to be a treatise, nor should it be used as the sole basis for making critical business or legal decisions regarding HIPAA. The Matrix does not constitute, and may not be relied upon, as legal advice.

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1. Citation	2. Brief Summary of Pertinent Provision	3. Is there a HIPAA Counterpart?	4. Which Law Applies?	5. Why?
MCL 333.26263(a) (definition of authorized representative)	<p>Authorized Representative means either of the following:</p> <p><b>[i]</b> 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.</p> <p><b>[ii]</b> if the patient is deceased, his or her personal representative or his or her heirs at law or 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.</p>	<p><b>[i]</b> <u>Empowered Person.</u></p> <p>No.</p> <p><b>[ii]</b> <u>Deceased Patient.</u></p> <p>No.</p>	<p><b>[i]</b> <u>Empowered Person.</u></p> <p>State law, but see Column 5.</p> <p><b>[ii]</b> <u>Deceased Patient.</u></p> <p>State law, but see Column 5.</p>	<p><b>[i]</b> <u>Empowered Person.</u></p> <p>State law applies because no Rule counterpart exists containing a definition of authorized representative.</p> <p><b>Note:</b> Although the Rule does not include a definition of authorized representative, to the extent the Rule applies to a request for access or disclosure, the Rule establishes elements of an authorization. <i>See</i> 164.508</p> <p><b>[ii]</b> <u>Deceased Patient.</u></p> <p>State law applies because no Rule counterpart exists containing a definition of authorized representative.</p> <p><b>Note:</b> The state law definition allows an heir of a decedent or a beneficiary of decedent's life insurance policy to access a copy of the decedent's medical reports (life insurance beneficiary's access only for the limited</p>

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				purpose of proving a claim for benefits). <i>See</i> 164.502(g)(4).
MCL 333.26263(c) (definition of guardian)	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.	<u>Guardian.</u>  No.	<u>Guardian.</u>  State law.	<u>Guardian.</u>  State law applies because no Rule counterpart exists containing a definition of guardian.  <b>Note:</b> The Rule allows a provider to refuse to treat a guardian as a personal representative (for purposes of access to PHI) if the individual who is the subject of the PHI has been or may be subject to abuse, endangerment or the covered entity otherwise believes, in its exercise of professional judgment, that it is not in the best interest of the individual to treat the person as the individual's personal representative. <i>See</i> 164.502(g)(2); 164.502(g)(5).
MCL 333.26263(d) (definition of health care)	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.	<u>Health Care.</u>  Yes, 160.103.	<u>Health Care.</u>  Both, but see Column 5.	<u>Health Care.</u>  State law and the Rule apply because each include compatible definitions of health care.
MCL 333.26263(e)	Health care provider means a person	<u>Health Care Provider.</u>	<u>Health Care Provider.</u>	<u>Health Care Provider.</u>

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(definition of health care provider)	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.	Yes, 160.103.	Both, but see Column 5.	Both state law and the Rule apply because each include compatible definitions of health care provider. The state law definition, however, is much narrower than the definition of provider under the Rule, as the state law does not apply to pharmacists, DME suppliers, psychiatrists, psychologists, social workers, and mental health providers. State law is broader than the Rule in the respect that the state law applies to providers that do not submit claims electronically, i.e., the Rule applies only to providers that submit transactions electronically.
MCL 333.26263(f) (definition of health facility)	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.	<u>Health Facility.</u>  No.	<u>Health Facility.</u>  State law, but see Column 5.	<u>Health Facility.</u>  State law applies because no Rule counterpart exists containing a definition of health facility.
MCL 333.26263(i) (definition of medical record)	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	<u>Medical Record.</u>  No.	<u>Medical Record.</u>  State law.	<u>Medical Record.</u>  State law applies because no Rule counterpart exists containing a definition of medical record. <i>See</i> 160.103; 164.501, 164.502(d).

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	facility in the process of a patient's health.			<b>Note:</b> The Rule expressly includes payment information in all of the referenced definitions, while the state law definition of medical record does not expressly include payment information.
MCL 333.26263(m) (definition of minor)	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	<u>Minor.</u>  No, but see Column 5.	<u>Minor.</u>  State law.	<u>Minor.</u>  State law applies because no Rule counterpart exists containing a definition of minor.  <b>Note:</b> The Rule does not define minor but does address uses and disclosures of a minor's PHI at 164.502(g)(3).

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MCL 333.26263(n) (definition of patient)	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.	<u>Patient.</u>  No, but see Column 5.	<u>Patient.</u>  State law.	<u>Patient.</u>  State law applies because no Rule counterpart exists containing a definition of patient. The Rule, however, defines "individual" as the person who is the subject of PHI. In addition, the Rule correlates to state law as it addresses use and disclosure of PHI concerning unemancipated minors. See 160.103; 164.502(g).
MCL 333.26263(p) (definition of personal representative)	Personal representative means that term as defined in section 1106 of the estates and protected individuals code, 1998 PA 386, MCL 700.1106.	<u>Personal Representative.</u>  No, but see Column 5.	<u>Personal Representative.</u>  State law.	<u>Personal Representative.</u>  State law applies because no Rule counterpart exists containing a definition of personal representative.  <b>Note:</b> OCR guidelines define personal representative as a person authorized (under state or other applicable law) to act on behalf of the individual in making health care related decisions. In addition, 164.502(g) further provides when and to what extent a personal representative must be treated as the "individual."

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<p>MCL 333.26265 (right of patient or authorized representative to examine or obtain copies of medical records)</p>	<p><b>[i]</b> Except as otherwise provided by law or regulation, a patient or his or her authorized representative has the right to examine or obtain the patient's medical record.</p> <p><b>[ii]</b> An individual authorized under subsection (1) who wishes to examine or obtain a copy of the patient's medical record shall submit a written request that is signed and dated by that individual not more than 60 days before being submitted to the health care provider or health facility that maintains the medical record that is the subject of the request. Upon receipt of a request</p>	<p><b>[i]</b> <u>Access to Medical Records.</u></p> <p>Yes, 164.524(a).</p> <p><b>[ii]</b> <u>Access Procedure.</u></p> <p>Yes, 164.524(a); 164.524(b)(2); 164.524(c)(1).</p>	<p><b>[i]</b> <u>Access to Medical Records.</u></p> <p>Both.</p> <p><b>[ii]</b> <u>Access Procedure.</u></p> <p>Both.</p>	<p><b>[i]</b> <u>Access to Medical Records.</u></p> <p>Both state law and the Rule apply because, in general, each provides for access and disclosure to the individual to whom the confidential health information pertains or to his or her authorized representative.</p> <p><b>Note:</b> The words "provided by" in the state law and the interpretation thereof by the user will affect the outcome of a determination of whether state law or the Rule apply. For example, some users may interpret "provided by" to mean "required by" while others may interpret "provided by" to mean "permitted by."</p> <p><b>[ii]</b> <u>Access Procedure.</u></p> <p>Both state law and the Rule apply because, in general, each permits access to confidential health information within mandated time frames pursuant to a written request.</p> <p><b>Note:</b> Neither state law nor</p>

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	<p>under this subsection, a health care provider or health facility shall, as promptly as required under the circumstances, but not later than 30 days after receipt of the request or if the medical record is not maintained or accessible on-site not later than 60 days after receipt of the request, do one or more of the following:</p> <p>(a) Make the medical record available for inspection or copying, or both, at the health care provider's or health facility's business location during regular business hours or provide a copy of all or part of the medical record, as requested by the patient or his or her authorized representative.</p> <p>(b) If the health care provider or health facility has contracted with another person or medical records company to maintain the health care provider's or health facility's medical records, the health care provider or health facility shall transmit a request made under this subsection to the person or medical records company maintaining the medical records. The health care</p>	<p>(a) <u>Time for Access.</u> Yes, 164.524(c)(3).</p> <p>(b) <u>Access When Records in Storage.</u> Yes, 164.524(b)(2)(ii).</p>	<p>(a) <u>Time for Access.</u> Both.</p> <p>(b) <u>Access When Records in Storage.</u> Both.</p>	<p>the Rule would preclude a provider from accepting a written request signed and dated more than 60 days before it was submitted. Such a request would not be enforceable under state law but the Rule may preempt state law in this respect because the Rule does not provide that a request expires or becomes invalid after a specific period.</p> <p>(a) <u>Time for Access.</u> Both state law and the Rule apply because each permits access to confidential health information for inspection and copying.</p> <p>(b) <u>Access When Records in Storage.</u> Both state law and the Rule apply because each permits access to records in storage.</p>

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	<p>provider or health facility shall retrieve the medical record from the person or medical records company maintaining the medical records and comply with subdivision (a) or shall require the person or medical records company that maintains that medical record to comply with subdivision (a).</p> <p>(c) Inform the patient or his or her authorized representative if the medical record does not exist or cannot be found.</p> <p>(d) If the health care provider or health facility to which the request is directed does not maintain the medical record requested and does not have a contract with another person or medical records company as described in subdivision (b), so inform the patient or his or her authorized representative and provide the name and address, if known, of the health care provider or health facility that maintains the medical records.</p>	<p>(c) <u>Notification if Medical Records Cannot be Located.</u></p> <p>Yes, 164.524(b)(2)(ii), 164.524(d)(3).</p> <p>(d) <u>Notification if Medical Records Maintain by Another Provider.</u></p> <p>Yes, 164.524(d)(3).</p>	<p>(c) <u>Notification if Medical Records Cannot be Located.</u></p> <p>Both.</p> <p>(d) <u>Notification if Medical Records Maintain by Another Provider.</u></p> <p>Both.</p>	<p>(c) <u>Notification if Medical Records Cannot be Located.</u></p> <p>Both state law and the Rule apply because each requires notification when confidential health information cannot be located.</p> <p>(d) <u>Notification if Medical Records Maintain by Another Provider.</u></p> <p>Both state law and the Rule apply because each requires notification when confidential information is known to be maintained by another provider.</p>

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	<p>(e) if the health care provider or health facility determines that disclosure of the requested medical record is likely to have an adverse effect on the patient, the health care provider or health facility shall provide a clear statement supporting that determination and provide the medical record to another health care provider, health facility, or legal counsel designated by the patient or his or her authorized representative.</p> <p>(f) If the health care provider or health facility receives a request for a medical record that was obtained from someone other than a health care provider or health facility under a confidentiality agreement, the health care provider or health</p>	<p>(e) <u>Denial if Disclosure Like to Have an Adverse Effect</u>.</p> <p>Yes, 164.524(a)(3)(i), 164.524(d).</p> <p>(f) <u>Denial of Access if Confidentiality Agreement</u>.</p> <p>Yes, 164.524(a)(2)(v); 164.524(b)(2); 164.524(d)(2).</p>	<p>(e) <u>Denial if Disclosure Like to Have an Adverse Effect</u>.</p> <p>Both, but see Column 5.</p> <p>(f) <u>Denial of Access if Confidentiality Agreement</u>.</p> <p>Both.</p>	<p>(e) <u>Denial if Disclosure Likely to Have an Adverse Effect</u>.</p> <p>Both state law and the Rule apply because each requires the provider to issue a clear statement supporting that the denial is due to the likelihood that the disclosure will have an adverse effect.</p> <p><b>Note:</b> As for the reasons available to deny access, both the state law and the Rule apply unless state law is read to limit the ability of a health care provider or health facility to deny access only as to a circumstance where there is a perceived adverse effect on the patient, in which case state law would control.</p> <p><b>Note:</b> As for the right of a patient under state law to request that such denied records be sent to another health care provider, health facility or legal counsel, the patient's authorization must comply with the Rule.</p> <p>(f) <u>Denial of Access if</u></p>

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	<p>facility may deny access to that medical record if access to that medical record would be reasonably likely to reveal the source of the information. If the health care provider or health facility denies access under this subdivision, it shall provide the patient or his or her authorized representative with a written denial.</p> <p>(g) The health care provider, health facility, or medical records company shall take reasonable steps to verify the identity of the person making the request to examine or obtain a copy of the patient's medical record.</p> <p><b>[iii]</b> If the health care provider, health facility, or medical records company is unable to take action as required under subsection [ii] and the health care provider, health facility, or medical records company provides the patient with a written statement indicating the reasons for its delay within the required time period, the health care provider, health facility, or medical records company may extend the response time for no more than 30 days. A</p>	<p>(g) <u>Verification of Identity.</u></p> <p>Yes, 164.514(h).</p> <p><b>[iii]</b> <u>Extension for Compliance.</u></p> <p>Yes, 164.524(6)(iii).</p>	<p>(g) <u>Verification of Identity.</u></p> <p>Both.</p> <p><b>[iii]</b> <u>Extension for Compliance.</u></p> <p>Both.</p>	<p><u>Confidentiality Agreement.</u></p> <p>Both state law and the Rule apply because each permits a provider to deny access to protected health information if the information is subject to a confidentiality agreement.</p> <p>(g) <u>Verification of Identity.</u></p> <p>Both state law and the Rule apply because each requires a provider to reasonably confirm the identity of a person requesting access to copies of protected health information.</p> <p><b>[iii]</b> <u>Extension for Compliance.</u></p> <p>Both state law and the Rule apply because each allows a 30 day extension for compliance with a request for</p>

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	health care provider, health facility, or medical records company may only extend the response time once per request under this subsection.			access.

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MCL 333.26267 (prohibition against inquiring about purpose of request for access to medical records)	A health care provider or health facility that receives a request for a medical record under section 5 shall not inquire as to the purpose of the request.	No.	State law, but see Column 5.	<p>State law applies because no Rule counterpart exists prohibiting inquiry into the purpose of the request.</p> <p><b>Note:</b> When someone other than the individual requests access or a copy and an authorization is required, the Rule requires that the authorization include a description of such representative's authority to act for the individual. If a representative is asking for access or a copy, it would not violate either the Rule or state law to ask the representative to describe his/her authority to act and/or relationship to the patient or deceased patient.</p> <p><b>Note:</b> To the extent an authorization under the Rule is required, the Rule permits insertion of the phrase "at the request of the individual" into an authorization when a statement of purpose is not given, a provider can comply with state law and the provisions for a valid authorization under the Rule. Therefore, on the authorization form (or other</p>

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				form used to request records), the provider could state, "You are not required to tell us the purpose of your request. If you do not wish to tell us, simply check the box that states, 'at my request.' If you wish to provide more detailed information, you may do so here:"
MCL 333.26269 (allowable charges for copying medical records)	<p><b>[i]</b> Except as otherwise provided in this section, if a patient or his or her authorized representative makes a request for a copy of all or part of his or her medical record under section 5, the health care provider, health facility, or medical records company to which the request is directed may charge the patient or his or her authorized representative a fee that is not more than the following amounts:</p> <p>(a) an initial fee of \$20.00 per request for a copy of the record.</p>	<p><b>[i]</b> <u>Initial Fee.</u></p> <p>Yes, 164.524(c)(4).</p>	<p><b>[i]</b> <u>Initial Fee.</u></p> <p>Both, but see Column 5.</p>	<p><b>[i]</b> <u>Initial Fee.</u></p> <p>Both the state law and the Rule apply because each permits a provider to charge a fee for the labor of copying, cost of supplies and postage or shipping costs.</p> <p>State law would appear to permit the provider to charge an initial fee to an authorized representative but this is not permitted by the Rule.</p> <p><b>Note:</b> State law does not define the term "initial fee." The preamble to the Rule, however, clarifies that the Rule prohibits imposing on individuals any fees associated with handling, retrieval or processing requests for PHI. Thus, to the extent that the initial fee</p>

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				<p>contemplated by state law includes fees for handling, retrieval or processing requests for PHI, such fees cannot be imposed on individuals or on personal representatives insofar as personal representatives are treated under the Rule as if they were the individual. To the extent that the term initial fee includes fees that are otherwise permitted under the Rule (i.e., reasonable fees associated with the labor of copying, copying supplies, postage, etc.), such fees are not precluded by the Rule and could be imposed under state law on persons other than patients, those deemed to be patients under state law or an authorized representative of a medically indigent individual making a request on behalf of the medically indigent individual for a free copy of the indigent individual's records. The preamble to the Rule also notes that fees for copying and postage provided under state law, but not for other costs excluded by the Rule, are presumed reasonable.</p>

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	<p>(b) paper copies as follows:</p> <p>(i) One dollar per page for the first 20 pages</p> <p>(ii) Fifty cents per page for pages 21 through 50</p> <p>(iii) Twenty cents for pages 51 and over.</p>	<p>(b) <u>Fees</u>.</p> <p>Yes, 164.524(c)(4).</p>	<p>(b) <u>Fees</u>.</p> <p>Both.</p>	<p>(b) <u>Fees</u>.</p> <p>Both the state law and the Rule apply because each permits a provider to charge a fee for the labor of copying, costs of supplies and postage or shipping costs.</p> <p><b>Note:</b> See discussion of initial fee above.</p> <p><b>Note:</b> The preamble to the Rule indicates that fees for copying and postage provided under state law (but not other costs prohibited under the Rule) are reasonable.</p>

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	<p>(c) If the medical record is in some form or medium other than paper, the actual cost of preparing a duplicate.</p> <p>(d) Any postage or shipping costs incurred by the health care provider, health facility, or medical records company in providing the copies.</p>	<p>(c) <u>Duplicating Costs</u>.</p> <p>Yes, 164.524(c)(4).</p> <p>(d) <u>Postage/Shipping Costs</u>.</p> <p>Yes, 164.524(c)(4).</p>	<p>(c) <u>Duplicating Costs</u>.</p> <p>Both.</p> <p>(d) <u>Postage/Shipping Costs</u>.</p> <p>Both.</p>	<p>(c) <u>Duplicating Costs</u>.</p> <p>Both the state law and the Rule apply because each permits a provider to charge a fee for the labor of copying, costs of supplies and postage or shipping costs.</p> <p><b>Note:</b> See discussion of initial fee above.</p> <p><b>Note:</b> The preamble to the Rule indicates that fees for copying and postage provided under state law (but not other costs prohibited under the Rule) are reasonable.</p> <p>(d) <u>Postage/Shipping Costs</u>.</p> <p>Both the state law and the Rule apply because each permits a provider to charge a fee for the labor of copying, costs of supplies and postage or shipping costs.</p> <p><b>Note:</b> See discussion of initial fee above.</p> <p><b>Note:</b> The preamble to the Rule indicates that fees for copying and postage provided</p>

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				under state law (but not other costs prohibited under the Rule) are reasonable.
	<p>(e) Any actual costs incurred by the health care provider, health facility or medical records company in retrieving medical records that are 7 years old or older and not maintained or accessible on-site.</p> <p><b>[ii]</b> A health care provider, health facility, or medical records company may refuse to retrieve or copy all of part of a medical record for a patient or his or her authorized representative until the applicable fee is paid.</p>	<p>(e) <u>Retrieval Costs</u>. Yes, 164.524(c)(4).</p> <p><b>[ii]</b> <u>Refusal to Copy</u>. No.</p>	<p>(e) <u>Retrieval Costs</u>. The Rule.</p> <p><b>[ii]</b> <u>Refusal to Copy</u>. State law, but see Column 5.</p>	<p>(e) <u>Retrieval Costs</u>. The Rule applies because the Rule does not allow a provider to charge retrieval costs which would be a barrier to access.</p> <p><b>[ii]</b> <u>Refusal to Copy</u>. State law applies because there is no Rule counterpart permitting provider to deny access or copies until the appropriate fee is paid.</p> <p><b>Note:</b> Nothing precludes a provider under the Rule, however, from refusing to provide copies if the applicable fee is not paid.</p> <p><b>Note:</b> The Rule applies with regard to a request for retrieval or access on-site.</p>

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	<p><b>[iii]</b> A health care provider, health facility, or medical records company shall not charge a fee for retrieving, copying, or mailing all or part of a medical record other than a fee allowed under subsection (1). Except as otherwise provided in subsection (4), a health care provider, health facility, or medical records company shall waive all fees for a medically indigent individual. The health care provider, health facility, or medical records company may require the patient or his or her authorized representative to provide proof that the patient is a recipient of assistance as described in this subsection.</p> <p><b>[iv]</b> A medically indigent individual that receives copies of medical records at no charge under subsection (3) is limited to 1 set of copies per health care provider, health facility, or medical records company.</p> <p>Any additional requests for the same records from the same health care provider, health facility, or medical</p>	<p><b>[iii]</b> <u>Provisions for Medically Indigent.</u></p> <p>Yes, 164.524(c)(4).</p> <p><b>[iv]</b> <u>Initial Request for Copies.</u></p> <p>No.</p>	<p><b>[iii]</b> <u>Provisions for Medically Indigent.</u></p> <p>Both, but see Column 5.</p> <p><b>[iv]</b> <u>Initial Request for Copies.</u></p> <p>Both, but see Column 5.</p>	<p><b>[iii]</b> <u>Provisions for Medically Indigent.</u></p> <p>Regarding fees, both state law and the Rule apply because each permits a provider to charge a fee for the labor of copying, costs of supplies and postage or shipping costs.</p> <p>Regarding medically indigent, state law applies because no Rule counterpart exists regarding waiver of fees for medically indigent.</p> <p><b>Note:</b> Under state law, fees for the first copy must also be waived if an authorized representative of a medically indigent individual requests copies on behalf of the medically indigent individual.</p> <p><b>[iv]</b> <u>Initial Request for Copies.</u></p> <p>State law applies because no Rule counterpart exists regarding waiver of fees for a medically indigent individual. However, for additional requests for the same records from the same provider, both state law and the Rule apply with regard to fees that can be</p>

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	records company shall be subject to the fee provisions under subsection (1).			charged by a provider. See 164.524(c)(4) and discussion above regarding allowable fees under state law and the Rule depending on whether records are requested by the patient, authorized representative, or the personal representative of a deceased individual or a deceased individual's estate.
	[v] Notwithstanding subsection (1), a health care provider, health facility, or medical records company shall not charge a patient an initial fee for his or her medical record.	[v] <u>Prohibition Against Initial Fee.</u>  Yes, 164.524(c)(4).	[v] <u>Prohibition Against Initial Fee.</u>  Both.	[v] <u>Prohibition Against Initial Fee.</u>  Both state law and the Rule apply because each permits a provider to charge a fee for the labor of copying, costs of supplies and postage or shipping costs.  <b>Note:</b> See discussion of initial fee above.

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	<p>[vi] Beginning 2 years after the effective date of this act, the department of community health shall adjust on an annual basis the fees prescribed by subsection (1) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index.</p>	<p>[vi] <u>Annual Adjustment of Fees.</u></p> <p>No.</p>	<p>[vi] <u>Annual Adjustment of Fees.</u></p> <p>State law.</p>	<p>[vi] <u>Annual Adjustment of Fees.</u></p> <p>State law applies because there is no Rule counterpart providing for maximum fees for copying medical records or an annual adjustment to such fees.</p>
<p>MCL 333.26271 (exclusion of third party payers)</p>	<p>This act does not apply to copies of medical records provided to a third party payer, insurer as defined in section 106 of the insurance code of 1956, 1956 PA 218, MC:L 500.106, or self-funded plan.</p>	<p><u>Exclusion of Third Party Payers.</u></p> <p>No.</p>	<p><u>Exclusion of Third Party Payers.</u></p> <p>State law.</p>	<p><u>Exclusion of Third Party Payers.</u></p> <p>State law applies because there is no Rule counterpart. State law deals solely with access to information by patient or patient's representative. <i>See</i> 164.524.</p>
<p>MCL 333.16211(s) (Enforcement of Medical Records Access Act Against Health Professionals)</p>	<p>[1] The department of community health may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order relevant testimony to be taken and shall report its findings to the appropriate disciplinary subcommittee.</p> <p>[2] The disciplinary subcommittee shall proceed under section 16226 of the Public Health Code [which establishes sanctions for violations</p>	<p>[1] <u>Investigation.</u></p> <p>No.</p> <p>[2] <u>Enforcement Action.</u></p> <p>No.</p>	<p>[1] <u>Investigation.</u></p> <p>State law.</p> <p>[2] <u>Enforcement Action.</u></p> <p>State law.</p>	<p>[1] <u>Investigation.</u></p> <p>State law applies because the state, and not the federal government, is responsible for investigating health professionals' compliance with state licensing standards, including compliance with the Medical Records Access Act.</p> <p>[2] <u>Enforcement Action.</u></p> <p>State law applies because the state, and not the federal</p>

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	by health professionals of licensing standards] if it finds a violation of the Medical Records Access Act.			government, is responsible for proceeding against a licensed health professional for a violation of the Medical Records Access Act.
MCL 333.20170 (Medical Records Access/Compliance by Licensed Health Facilities or Agencies)	A health facility or agency shall comply with the Medical Records Access Act	No.	State law.	State law applies because compliance with the Medical Records Access Act is established by state law. The state department of community health is responsible for investigating and enforcing licensing standards, including compliance with the Medical Records Access Act, against health facilities and agencies. <i>See MCL 333.20101, et seq.</i>

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