

Act No. 60
Public Acts of 2023
Approved by the Governor
July 11, 2023
Filed with the Secretary of State
July 12, 2023
EFFECTIVE DATE: October 10, 2023

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Theis, Geiss, Chang, Lauwers, Bellino, Bayer, Shink, Wojno, McCann,
Cavanagh and Polehanki

ENROLLED SENATE BILL No. 69

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” (MCL 333.1101 to 333.25211) by adding sections 16279 and 16279a.

The People of the State of Michigan enact:

Sec. 16279. (1) Except as otherwise provided in this section, a licensee or registrant shall not perform a medical treatment, procedure, or examination on a patient who is a minor that involves the vaginal or anal penetration of the minor unless all of the following are met:

(a) The medical treatment, procedure, or examination is within the scope of practice of the licensee’s or registrant’s health profession.

(b) A medical assistant or another licensee or registrant is in the room while the medical treatment, procedure, or examination is performed. The person providing consent under subdivision (c) may waive the requirement described in this subdivision.

(c) Before performing the medical treatment, procedure, or examination, the licensee or registrant obtains the written consent of a parent, guardian, or person in loco parentis of the minor or the consent of any person that is authorized by law to provide consent, on the form created in section 16279a or on another form that includes the same information as the form created in section 16279a. The written consent described in this subdivision may be obtained through electronic means.

(2) A licensee or registrant who obtains the consent required under subsection (1) for a medical treatment, procedure, or examination that requires subsequent visits to perform the same treatment, procedure, or examination on the minor may perform the subsequent treatment, procedure, or examination on the minor without obtaining the consent required under subsection (1) if the subsequent treatment, procedure, or examination is performed within 6 months from the date of obtaining the consent required under subsection (1).

(3) Subsection (1) does not apply in any of the following circumstances:

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

(b) If the medical treatment, procedure, or examination primarily relates to the patient's urological, gastrointestinal, reproductive, gynecological, or sexual health.

(c) If the medical treatment, procedure, or examination is performed at a children's advocacy center. As used in this subdivision, "children's advocacy center" means that term as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(d) If the medical treatment, procedure, or examination is performed for purposes of a sexual assault medical forensic examination under section 21527.

(e) If the medical treatment, procedure, or examination is performed for the purpose of measuring the patient's temperature.

(f) If the medical treatment, procedure, or examination is performed for the purpose of rectally administering a drug or medicine.

(4) The consent form required under subsection (1) must be maintained in a patient's medical record for not less than 15 years from the date on which the medical treatment, procedure, or examination was performed.

(5) A person that knowingly violates subsection (1) is guilty of a felony punishable as follows:

(a) For the first offense, by imprisonment for not more than 2 years or a fine of not more than \$5,000.00, or both.

(b) For a second or subsequent offense, by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

(7) A court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this section.

Sec. 16279a. (1) The department shall create and may periodically update a standardized consent form to be used by a licensee or registrant who provides a medical treatment, procedure, or examination to a minor under section 16279. The department shall use generally accepted standards of medical practice in determining the information to be included on the form. The form must include at least all of the following statements:

(a) That gloves are generally used for a medical treatment, procedure, or examination involving vaginal or anal penetration.

(b) That the person providing consent under section 16279 has the right to request information on whether there is a reasonable alternative to the treatment, procedure, or examination that does not consist of anal or vaginal penetration.

(c) That the person providing consent under section 16279 has the right to request a clear explanation of the nature of the treatment, procedure, or examination.

(d) That the person providing consent under section 16279 may request that gloves be used during the treatment, procedure, or examination.

(e) That a licensee or registrant generally cannot be alone in the room with the patient while the treatment, procedure, or examination is being performed.

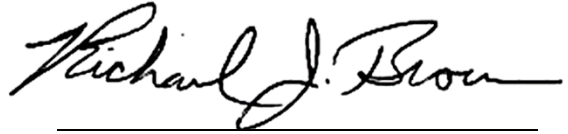
(2) The department shall make the form publicly available on its website.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor