

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.16279 Medical treatment, procedure, or examination involving vaginal or anal penetration; requirements; written consent; exceptions; record retention violation; penalties.

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.

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