

STATE OF NEW YORK

762--A

2023-2024 Regular Sessions

IN SENATE

January 6, 2023

Introduced by Sens. KRUEGER, BAILEY, COMRIE, HOYLMAN-SIGAL, PARKER, RIVERA, SALAZAR, SANDERS, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to providing medical care to minors for sexually transmitted diseases without a parent's or guardian's consent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 2305 of the public health law, as amended by chap-
2 ter 878 of the laws of 1980, the section heading and subdivisions 1 and
3 2 as amended by section 35 of part E of chapter 56 of the laws of 2013,
4 is amended to read as follows:
5 § 2305. Sexually transmitted diseases; care and treatment by licensed
6 physician or staff physician of a hospital, physician assistant, nurse
7 practitioner, licensed midwife; prescriptions; consent by minors. 1. No
8 person, other than a licensed physician, or, in a hospital, a staff
9 physician, or a physician assistant, nurse practitioner, or licensed
10 midwife acting within their lawful scope of practice, shall diagnose,
11 treat or prescribe for a person who is infected with a sexually trans-
12 mitted disease, or who has been exposed to infection with a sexually
13 transmitted disease, or dispense or sell a drug, medicine or remedy for
14 the treatment of such person except on prescription of a duly licensed
15 physician.
16 2. (a) A licensed physician, or in a hospital, a staff physician, or a
17 physician assistant, nurse practitioner, or licensed midwife acting
18 within their lawful scope of practice, may diagnose, treat or prescribe
19 treatment for a sexually transmitted disease for a person under the age
20 of [~~twenty-one~~] eighteen years without the consent or knowledge of the
21 parents or [~~guardian~~] guardians of said person, where such person is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 infected with a sexually transmitted disease, or has been exposed to
2 infection with a sexually transmitted disease.

3 (b) A licensed physician, or in a hospital, a staff physician, or a
4 physician assistant, nurse practitioner, or licensed midwife acting
5 within their lawful scope of practice, may provide health care related
6 to the prevention of a sexually transmissible disease, including admin-
7 istering vaccines, to a person under the age of eighteen years without
8 the consent or knowledge of the parents or guardians of such person,
9 provided that the person has capacity to consent to the care, without
10 regard to the person's age, and the person consents.

11 (c) Any release of patient information regarding vaccines provided
12 under this section shall be consistent with sections seventeen and eigh-
13 teen of this chapter and other applicable laws and regulations.

14 (d) Nothing in this section shall be construed to expand the scope of
15 practice of any individual licensed, certified or authorized under title
16 eight of the education law, nor does this section give any such individ-
17 ual the authority to act outside their scope of practice, as defined in
18 title eight of the education law.

19 3. For the purposes of this section, the term "hospital" shall mean a
20 hospital as defined in article twenty-eight of this chapter.

21 § 2. The first undesignated paragraph of section 17 of the public
22 health law, as amended by chapter 322 of the laws of 2017, is amended to
23 read as follows:

24 Upon the written request of any competent patient, parent or guardian
25 of an infant, a guardian appointed pursuant to article eighty-one of the
26 mental hygiene law, or conservator of a conservatee, an examining,
27 consulting or treating physician or hospital must release and deliver,
28 exclusive of personal notes of the said physician or hospital, copies of
29 all x-rays, medical records and test records including all laboratory
30 tests regarding that patient to any other designated physician or hospi-
31 tal provided, however, that such records concerning the care and treat-
32 ment of an infant patient for venereal disease or the performance of an
33 abortion operation upon such infant patient shall not be released or in
34 any manner be made available to the parent or guardian of such infant,
35 and provided, further, that original mammograms, rather than copies
36 thereof, shall be released and delivered. Either the physician or hospi-
37 tal incurring the expense of providing copies of x-rays, medical records
38 and test records including all laboratory tests pursuant to the
39 provisions of this section may impose a reasonable charge to be paid by
40 the person requesting the release and deliverance of such records as
41 reimbursement for such expenses, provided, however, that the physician
42 or hospital may not impose a charge for copying an original mammogram
43 when the original has been released or delivered to any competent
44 patient, parent or guardian of an infant, a guardian appointed pursuant
45 to article eighty-one of the mental hygiene law, or a conservator of a
46 conservatee and provided, further, that any charge for delivering an
47 original mammogram pursuant to this section shall not exceed the docu-
48 mented costs associated therewith. However, the reasonable charge for
49 paper copies shall not exceed seventy-five cents per page. A release of
50 records under this section shall not be denied solely because of inabil-
51 ity to pay. No charge may be imposed under this section for providing,
52 releasing, or delivering medical records or copies of medical records
53 where requested for the purpose of supporting an application, claim or
54 appeal for any government benefit or program, provided that, where a
55 provider maintains medical records in electronic form, it shall provide

1 the copy in either electronic or paper form, as required by the govern-
2 ment benefit or program, or at the patient's request.

3 § 3. Paragraph (i) of subdivision 3 of section 18 of the public health
4 law, as added by chapter 634 of the laws of 2004, is amended to read as
5 follows:

6 (i) The release of patient information shall be subject to: (i) arti-
7 cle twenty-seven-F of this chapter in the case of confidential HIV-re-
8 lated information; (ii) section seventeen of this article and sections
9 [~~twenty-three hundred one,~~] twenty-three hundred six and twenty-three
10 hundred eight of this chapter in the case of termination of a pregnancy,
11 and care and treatment for a sexually transmitted disease; (iii) article
12 thirty-three of the mental hygiene law; and (iv) any other provisions of
13 law creating special requirements relating to the release of patient
14 information, including the federal health insurance portability and
15 accountability act of 1996 and its implementing regulations.

16 § 4. This act shall take effect immediately.