

**ACT 58**

**H. B. 279.**

A Bill for an Act Relating to the Legal Capacity of Minors to Consent to Medical Care and Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** This Act is hereby declared to be an urgency measure

deemed necessary in the public interest within the meaning of section 11, Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

Presently, minors who are afflicted with venereal diseases or who are pregnant, are refused medical care and services at public and private hospitals and public and private clinics and refused medical care and services by physicians licensed to practice medicine, unless they receive prior consent from their parents, guardians or spouses. Because of this requirement, some minors do not receive medical care and services at all or turn to unproven, dangerous treatment in the hands of medical quacks, thus endangering the health of the minor and the fetus.

Statistics compiled by a special task force appointed by the United States Surgeon General reveals an alarming increase in the affliction of venereal disease by minors. The task force report indicated that between 1958 and 1960, there was a 132.1% increase in reported cases of primary and secondary syphilis in the 0 to 19 years age group and 135.8% increase in the 15 to 19 years age group.

The United States Department of Health, Education and Welfare reported that in 1965 only more than a million Americans contracted gonorrhea. Hawaii ranked number 22 of the 50 states in the number of reported cases of primary and secondary syphilis.

In view of the alarming increase in the affliction of venereal diseases by minors and the disproportionately high incidence of maternal and infant deaths and catastrophic illnesses of minor pregnant women, it is therefore urgent and in the public interest that such minors be given medical care and services without the prior consent of the parents, guardians or spouses.

**SECTION 2. Purpose.** The purpose of this bill is to authorize a minor to consent to medical care and services for pregnancy or venereal disease by a physician licensed to practice medicine, and in public and private hospitals or in public and private clinics.

Presently, consent of parent, spouse or guardian is required before physicians can examine and render services to a minor afflicted with venereal disease or pregnancy. This bill will permit licensed physicians to examine and give medical care and service to minors afflicted on their own consent. The minor is given the same legal capacity to act and is subject to the same legal obligations with regard to the giving of such consent as if he or she were persons of full legal age and capacity.

**SECTION 3. Definition.** For the purpose of this Act only, the following terms shall be defined as follows:

"Minor" shall be any person from the age of fourteen to nineteen inclusive.

"Medical care and services" shall mean the diagnosis, examination and administration of medication in the treatment of venereal diseases and pregnancy. It shall not include surgery or any treatment to induce abortion except as permitted under section 309-4, Revised Laws of Hawaii 1955.

**SECTION 4. Consent valid.** The consent to the provision of medical care and service by public and private hospitals or public and private clinics, or the performance of medical care and services by a physician licensed to practice medicine, when executed by a female minor who is or professes to be pregnant, or by a minor who is or professes to be afflicted with a venereal disease, shall be valid and binding as if the said minor had achieved his or her majority as the case may be; that is, a female minor who is, or professes to be pregnant, or a minor who is, or professes to be afflicted with a venereal disease, shall be deemed to have, and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of such consent to such hospitals and such clinics or medical care and services to be provided by a physician licensed to practice medicine, as a person of full legal age and capacity, the infancy of the said minor and any contrary provisions of law notwithstanding, and such consent shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person or persons (including, but not limited to a spouse, parent, custodian, or guardian) shall be necessary in order to authorize such hospitals or such clinics or medical care and services provided by a physician licensed to practice medicine, to such a minor.

**SECTION 5. Providing information.** Public and private hospitals, or public and private clinics or physicians licensed to practice medicine shall inform the spouse, parent, custodian or guardian of any minor patient who is under eighteen (18) years of age and who is diagnosed as pregnant or afflicted with venereal disease, and such information shall be given to the spouse, parent, custodian or guardian without the consent of the minor patient and even over the express refusal of the minor patient.

If the minor patient who is under eighteen (18) years of age is not diagnosed as pregnant or afflicted with venereal disease, withholding of such information shall be within the discretion of the staff of such hospitals or such clinics or the physicians licensed to practice medicine, as the case may be.

**SECTION 6.** This Act shall take effect upon its approval.  
(Approved May 9, 1968.)