

Act No. 100
Public Acts of 2014
Approved by the Governor
April 7, 2014
Filed with the Secretary of State
April 10, 2014
EFFECTIVE DATE: April 1, 2015

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Reps. MacGregor, Shirkey, Lyons, Pscholka, Haines, Hooker, Schmidt, Darany, Genetski, Callton, Yonker, Foster, Cotter, Stallworth, Jacobsen, Tlaib, Zorn and Switalski

ENROLLED HOUSE BILL No. 4865

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 part 216.

The People of the State of Michigan enact:

PART 216

MOBILE DENTAL FACILITY

Sec. 21601. (1) As used in this part:

(a) “Active patient” means a person who has received any type of dental care in a mobile dental facility in the preceding 24 months.

(b) “Assessment of a patient” means a limited clinical inspection that is performed to identify possible signs of oral or systemic disease, malformation, or injury, and the potential need for referral for diagnosis and treatment.

(c) “Clinical evaluation” means a diagnostic service provided by a dentist that includes a complete intra- and extra-oral inspection, may include other modalities of examination to identify signs of oral or systemic disease, malformation, or injury, and may include the completion of diagnosis and treatment planning to determine the treatment needs of an individual patient.

(d) “Comprehensive dental services” means clinical evaluation, including diagnosis and treatment planning; imagery services; and indicated treatment that may include preventative, restorative, and surgical procedures that are considered necessary for an individual patient.

(e) “Dental home” means a network of individualized care based on risk assessment, that includes oral health education, dental screenings, preventative dental services, diagnostic services, comprehensive dental services, and emergency services.

(f) “Department” means the department of community health.

(g) “Imagery” means visualization of oral and facial structures using specialized instruments and techniques for diagnostic purposes.

(h) “Memorandum of agreement” means written documentation of an agreement between parties to work together cooperatively on an agreed-upon project or meet an agreed-upon objective. The purpose of a memorandum of agreement is to have a written understanding of the agreement between the parties. A memorandum of agreement serves as a legal document that is binding and holds the parties responsible to their commitment along with describing the terms and details of the cooperative agreement. A memorandum of agreement may be used between agencies, the public, the federal or state government, communities, and individuals.

(i) “Mobile dental facility” means either of the following:

(i) A self-contained, intact facility in which dentistry or dental hygiene is practiced that may be transported from 1 location to another.

(ii) A site used on a temporary basis to provide dental services using portable equipment.

(j) “Operator” means either of the following:

(i) An individual with a valid, current license to practice dentistry or dental hygiene in this state who utilizes and holds a permit under this part for a mobile dental facility.

(ii) A corporation, limited liability company, partnership, or any governmental agency contracting with individuals licensed to practice dentistry in this state or dental hygienists licensed in this state, that utilizes and holds a permit under this part for a mobile dental facility.

(k) “Preventative dental services” means dental services that include, but are not limited to, screening of a patient, assessment of a patient, prophylaxis, fluoride treatments, and application of sealants. Imagery studies are not preventative dental services.

(l) “Screening of a patient” means screening, including state- or federally mandated screening, to determine an individual’s need to be seen by a dentist for diagnosis.

(2) In addition, article 1 contains general definitions and principles of construction applicable to this part.

Sec. 21603. (1) An operator shall obtain a permit under this part for a mobile dental facility before offering dental services at the facility.

(2) A mobile dental facility shall have an operator in charge at all times.

(3) An operator may contract or employ other dentists, dental hygienists, or dental assistants to work in a mobile dental facility.

(4) An operator may hold a permit for 1 or more mobile dental facilities.

Sec. 21605. (1) An individual or entity seeking a permit to operate a mobile dental facility shall submit an application on a form provided by the department.

(2) An application submitted to the department under subsection (1) shall include a registration fee in an amount determined by the department but not more than the cost of a dental license renewal fee.

(3) A permit is valid for 3 years and an application for renewal may be submitted not later than the last day of the month in which the permit expires upon submission of proof to the department of compliance with the requirements of this part. A permit application that is not timely filed is subject to a late fee in an amount determined by the department as the additional cost of processing the late renewal, but not more than a dental license late renewal fee.

(4) A permit shall not be issued unless the applying individual or entity is in compliance with all applicable requirements of this part.

(5) A permit issued under this part is not transferrable. If the operator of the mobile dental facility changes, the permit is no longer valid. However, if an application for a new permit to continue operating the mobile dental facility is submitted not later than 30 days after the change of operator, the former permit is valid as an interim permit until the application is approved or denied, but not longer than 90 days.

(6) The department shall either approve or deny an application for a permit under this part not later than 60 days after receiving the application.

Sec. 21607. (1) An applicant shall provide with the application for a permit under this part, and subsequently, within 10 days after a request from the department, all of the following information, as applicable:

(a) A list of each dentist, dental hygienist, and dental assistant who will provide care at or within the mobile dental facility, including, at a minimum, each individual's name, address, telephone number, and state occupational license number.

(b) A written plan and procedure for providing emergency follow-up care to each patient treated at the mobile dental facility.

(c) If the operator does not provide for follow-up services at a site within a reasonable distance for the patient and is not exempt under section 21611, a signed memorandum of agreement between the operator and at least 1 dentist or party who can arrange for or provide follow-up services at a site within a reasonable distance for the patient. The memorandum of agreement shall state that the contracting dentist or party will accept referrals of patients treated at the mobile dental facility. The agreement to accept a referral does not require the dentist or party to treat the patient.

(d) If the operator provides only preventative dental services and is not exempt under section 21611, a signed memorandum of agreement for referral for comprehensive dental services between the operator and at least 1 dentist or party who can arrange for or provide comprehensive dental services to the patient within a reasonable distance for the patient.

(e) Proof of general liability insurance covering the mobile dental facility that is issued by a licensed insurance carrier authorized to do business in this state.

(2) An operator shall meet all of the following requirements:

(a) Comply with all federal, state, and local laws, regulations, and ordinances applicable to the operation of a mobile dental facility, including, but not limited to, those concerning radiographic equipment, flammability, sanitation, zoning, and construction standards, including standards relating to required access for persons with disabilities.

(b) Maintain continuously available at the mobile dental facility a communication device for making and receiving telephone calls and summoning emergency services.

(c) Make immediately available, upon request from any person, a copy of the license of each dentist, dental hygienist, or dental assistant working at the mobile dental facility.

(d) Make immediately available, at the mobile dental facility, upon request from any person, a copy of the permit required under this part.

(3) The operator of a mobile dental facility and the operator's agents and employees shall comply with all federal, state, and local laws, administrative rules, regulations, and ordinances applicable to the mobile dental facility and to the individuals and entities that provide the preventative dental services or comprehensive dental services at the mobile dental facility, including, but not limited to, those concerning sanitation, infectious waste management and disposal, occupational safety, and disease prevention.

(4) An operator shall not provide dental services at a mobile dental facility unless it is equipped with, or there is appropriate access to, all of the following functional equipment:

(a) An instrument sterilization system.

(b) Potable hot and cold water or hand sanitizer.

(c) Toilet facilities.

(d) Smoke and carbon monoxide detectors, as applicable.

(e) Radiographic equipment properly registered and inspected, as applicable, by the state.

(f) A communication device continuously available for making and receiving telephone calls and summoning emergency services.

(5) An operator shall not provide dental services at a mobile dental facility unless it is equipped with, or there is appropriate access to, all of the following:

(a) Proper lighting.

(b) Portable suction.

(c) Hand pieces.

(d) Dental instruments.

(e) Supplies.

(6) Except as provided in subsection (7) or (8), a dentist licensed under this act shall be present in the mobile dental facility at any time comprehensive dental services that are not preventative dental services are performed on a patient. A dentist licensed under this act need not be present at a mobile dental facility when only preventative dental services are being provided.

(7) If a mobile dental facility is part of a program that provides comprehensive dental services or is established under a memorandum of agreement that provides for referral for comprehensive dental services, imagery services may be provided at the mobile dental facility without a dentist present.

(8) If a mobile dental facility is part of a program that provides preventative dental services to a nursing home, assisted living center, or other similar setting, imagery services may be provided without a dentist present if the person taking the images obtains permission from the supervising dentist.

Sec. 21609. (1) The operator or his or her designee shall establish a written treatment plan for, and provide a copy to, each patient who receives dental services at a mobile dental facility. If a patient receives dental services in a nursing home, a written treatment plan shall be given to the nursing home for inclusion in the patient's health chart.

(2) The written treatment plan required under subsection (1) shall address comprehensive dental services to be provided either at the mobile dental facility or through an affiliated dentist, dental office, or party who can arrange for or provide those services under a memorandum of agreement with the operator of the mobile dental facility.

(3) If the written treatment plan required under subsection (1) will not be completed at the mobile dental facility, the operator or his or her designee shall make a reasonable attempt to refer the patient to a dentist or party who can arrange for or provide services under a memorandum of agreement until the treatment plan is completed or the patient ceases treatment. If the patient is a minor or incapacitated person, the operator or his or her designee shall also attempt to contact a parent or guardian and inform him or her of the referral. If the operator or his or her designee is unable to make arrangements for continued treatment, he or she shall place written documentation of the attempts in the patient record and make the documentation available to the department upon request. A copy of the documentation shall be sent to the patient. If a patient received dental services in a nursing home, a copy of the documentation shall be sent to the nursing home for inclusion in the patient's health chart. Failure of the operator or his or her designee to comply with this subsection is cause for disciplinary action by the department.

(4) The operator shall obtain the patient's written consent, or the consent of a parent or guardian of a patient who is a minor or legally incapable of consent, before providing any dental services to a patient at a mobile dental facility. However, if a patient receives dental services in a nursing home, the operator may obtain a doctor's order from the patient's attending physician or the medical director of the nursing home in lieu of any other required consent before providing any dental services to a patient at a mobile dental facility.

(5) The form for the written consent required under subsection (4) shall include, at a minimum, all of the following:

- (a) The name of the operator.
- (b) The permanent address of the operator.
- (c) The telephone number that a patient may call 24 hours a day for emergency calls.
- (d) A list of the services to be provided.

(e) A statement indicating that the patient, parent, or guardian understands that treatment may be obtained at the patient's dental home rather than at a mobile dental facility and that obtaining duplicate services at a mobile dental facility may affect benefits that he or she receives from private insurance, a state or federal program, or other third-party provider of dental benefits.

(6) If the patient is a minor or incapacitated person, the written consent form required under subsection (4) shall also include a request for the name or contact information for the dentist or dental office that provided dental services in the past 12 months.

(7) Each person receiving dental services at a mobile dental facility shall receive all of the following information:

(a) The name of the dentist, dental hygienist, dental assistant, or party who arranged for or provided the dental services to the patient.

(b) The telephone number or emergency contact number to reach the mobile dental facility or operator in case of emergency.

(c) A list of the dental services rendered.

(d) A description of any further dental services that are advisable or that have been scheduled.

(e) A referral to a specialist, dentist, or party who can arrange for or provide comprehensive dental services if dental services cannot be provided at the mobile dental facility. Upon request of the dentist or party who accepts the referral, the operator shall transmit all imagery records taken of the patient at the mobile dental facility.

(f) A copy of the consent form required under this section authorizing additional treatment.

(8) An operator who fails to comply with federal, state, or local laws and rules applicable to the mobile dental facility or any of the requirements of this part is subject to disciplinary action by the department.

Sec. 21611. If the operator has a memorandum of agreement due to its status as a state of Michigan designated or funded oral health prevention program with oversight from the department, the operator is exempt from any requirement concerning a memorandum of agreement under this part.

Sec. 21613. (1) The operator or his or her designee shall notify the department not later than 30 days after any of the following occurrences:

- (a) A change in the mobile dental facility operator.
- (b) A change in a memorandum of agreement required under section 21607.
- (c) A change in the address or telephone number of the mobile dental facility operator.
- (d) Cessation of operation of a mobile dental facility.
- (e) Any memorandum of agreement entered into after obtaining a permit under this part.
- (2) Upon cessation of operation of a mobile dental facility, the operator shall do all of the following:

(a) Provide written notice to all treatment venues and, upon request, provide evidence of the written notice to the department.

(b) Provide for availability of each active patient's dental records by 1 of the following methods:

(i) Make the dental records available to the patient or the patient's parent or guardian for 180 days after the mobile dental facility ceases operation and, upon his or her request, transfer the records to the active patient, the patient's parent or guardian, or another dentist.

(ii) Transfer the records to another dentist.

(c) Notify each active patient or the patient's parent or guardian that the dental records are available as required under subdivision (b), including the name and contact information for the dentist if the records have been transferred.

(d) Upon request from the department, provide documentation that a reasonable attempt was made to contact each active patient or the active patient's parent or guardian to provide information concerning storage and retrieval of the patient's records.

Sec. 21615. (1) Any individual or entity owning, operating, or providing services at a mobile dental facility is exempt from this part if the mobile dental facility is used solely to provide services that are rendered without compensation.

(2) If a provision in this part conflicts with a federal law regulating nursing homes, the federal law prevails.

(3) The department may promulgate rules to implement this part.

Sec. 21617. This part does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered at a mobile dental facility.

Enacting section 1. This amendatory act takes effect on April 1, 2015.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor