

Interpretive Statement

Title:	Sexual Misconduct Rule Clarification: Gloves	MD2006-02
References:	WAC 246-919-630(5) , WAC 246-919-410	
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Approved By:	W. Michelle Terry, MD, FAAP, Chair (signature on file)	

Description of the Issue

Is a practitioner's ungloved examination of a child a violation of [WAC 246-919-630](#)?

Background Information

On February 9, 2006, the Medical Quality Assurance Commission's (Commission) rules prohibiting sexual misconduct, [WAC 246-191-630](#) and [WAC 246-918-410](#), became effective. The Commission adopted the rules to protect the public from sexual misconduct by physicians and physician assistants.

[WAC 246-919-630\(2\)](#), applying to physicians, and [WAC 246-918-410\(2\)](#), applying to physician assistants, define a number of behaviors as sexual misconduct. Subsection (2)(f) of both rules state that a practitioner commits sexual misconduct when he or she engages in "examination or touching of genitals without using gloves."

The Commission has received feedback that it is often clinically necessary for pediatricians to perform examinations of their patients without gloves.

Analysis

The Commission is aware that certain behaviors that are clinically appropriate may technically fall within the definition of sexual misconduct. To address this, the Commission inserted the following provision into both rules:

(5) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

The Commission does not intend to, and the rules should not be interpreted to, prohibit conduct that is clinically appropriate. The Commission understands that practitioners frequently perform examinations of infants and children without using gloves because gloves impede the diagnostic process.

Stakeholders

- Physicians
- Consumers

Position

The Commission does not intend to prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation. The Commission interprets [WAC 246-919-630](#) and [WAC 246-918-410](#) as permitting a practitioner to perform an ungloved examination of an infants or a child when clinically appropriate.