
OLR Bill Analysis

HB 5278

AN ACT PROHIBITING AN UNAUTHORIZED INTIMATE EXAMINATION ON A PATIENT WHO IS UNDER DEEP SEDATION OR ANESTHESIA OR UNCONSCIOUS.

SUMMARY

This bill prohibits a health care provider from performing an “intimate examination” (i.e., pelvic, prostate, or rectal examination) on a patient who is unconscious or under deep sedation or anesthesia unless:

1. the patient or the patient’s legal representative provided written informed consent for it;
2. the examination is within the scope of the patient’s surgical procedure or diagnostic examination; or
3. for an unconscious patient, the examination is required for diagnostic purposes.

Under the bill, the written patient consent form must, among other things, (1) contain a bolded heading at the top about the examination, (2) allow the patient to consent to or refuse the examination, and (3) allow the patient to authorize or refuse a medical student or resident to perform, observe, or otherwise be present at the examination.

Additionally, the bill requires the Department of Public Health to investigate any alleged violations of the bill’s requirements and allows the department to take disciplinary action if it determines a violation was committed (e.g., license suspension or revocation, probation, or a letter of reprimand).

Under the bill, health care providers are physicians; medical students, residents, and fellows; physician assistants; and advanced practice registered nurses.

EFFECTIVE DATE: July 1, 2022

PATIENT WRITTEN INFORMED CONSENT

The bill requires providers, when obtaining informed consent to perform an intimate examination, to provide the patient or the patient’s legal representative with a written or electronic consent form that:

1. may be included as a distinct or separate section of a general informed consent form;
2. contains the following heading at the top of the form in at least 18-point, boldfaced type: “CONSENT FOR EXAMINATION OF PELVIC, PROSTATE OR RECTAL REGION;”
3. specifies the nature and purpose of the intimate examination;
4. informs the patient or the patient’s legal representative that a medical student or resident may be present if they authorize the student or resident to perform, observe, or otherwise be present at the examination for training purposes (either in-person or remotely);
5. allows the patient or patient’s legal representative the opportunity to consent to or refuse the intimate examination; and
6. allows a patient or a patient’s legal representative that consents to the examination the chance to allow or refuse a medical student or resident to perform, observe, or otherwise be present at the examination for training purposes (either in-person or remotely).

The bill also requires both the health care provider and the patient or patient’s legal representative to sign the form.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 31 Nay 0 (03/18/2022)