



House of Representatives

General Assembly

File No. 231

February Session, 2022

Substitute House Bill No. 5278

House of Representatives, March 31, 2022

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2022*) (a) As used in this section:
- 2 (1) "Health care provider" means a physician licensed pursuant to
3 chapter 370 of the general statutes, a student in a medical school
4 participating in a course of instruction, a person participating in a
5 residency program or clinical training program, a physician assistant
6 licensed pursuant to chapter 370 of the general statutes or an advanced
7 practice registered nurse licensed pursuant to chapter 378 of the general
8 statutes;
- 9 (2) "Intimate examination" means an inpatient or outpatient pelvic,
10 prostate or rectal examination; and
- 11 (3) "Legal representative" means a court-appointed fiduciary,
12 including a guardian or conservator, or a person with power of attorney

13 authorized to act on a patient's behalf or, if the patient is a minor, the
14 patient's parent or guardian.

15 (b) A health care provider may perform an intimate examination on
16 a patient who is (1) under deep sedation or anesthesia, or (2)
17 unconscious only when (A) the patient or the legal representative of the
18 patient provided written informed consent to the intimate examination,
19 (B) the performance of an intimate examination is within the scope of
20 the surgical procedure or diagnostic examination to be performed on
21 the patient, or (C) in the case of an unconscious patient, the intimate
22 examination is required for diagnostic purposes.

23 (c) To obtain informed consent to perform an intimate examination
24 from a patient or the legal representative of a patient pursuant to
25 subparagraph (A) of subdivision (2) of subsection (b) of this section, the
26 health care provider shall comply with the following requirements:

27 (1) Provide the patient or the patient's legal representative with a
28 written or electronic informed consent form that (A) may be included as
29 a distinct or separate section of a general informed consent form, (B)
30 contains the following heading at the top of the form in at least eighteen
31 point, boldface type: "CONSENT FOR EXAMINATION OF PELVIC,
32 PROSTATE OR RECTAL REGION", (C) specifies the nature and
33 purpose of the intimate examination, (D) informs the patient or the
34 patient's legal representative that a medical student or resident may be
35 present if the patient or the patient's legal representative authorizes the
36 student or resident to perform the intimate examination or to observe or
37 otherwise be present at the intimate examination for training purposes,
38 either in person or through electronic means, (E) allows the patient or
39 the patient's legal representative the opportunity to consent to or refuse
40 to consent to the intimate examination, and (F) allows a patient or a
41 patient's legal representative that consents to an intimate examination
42 under subparagraph (E) of this subdivision the opportunity to authorize
43 or refuse to authorize a medical student or resident to perform the
44 intimate examination or observe or otherwise be present at the intimate
45 examination for training purposes, either in person or through

46 electronic means;

47 (2) Obtain the signature of the patient or the patient's legal
48 representative on the informed consent form provided under
49 subdivision (1) of this subsection; and

50 (3) Sign the informed consent form provided under subdivision (1) of
51 this subsection.

52 (d) The Department of Public Health (1) shall investigate any alleged
53 violation of subsection (b) or (c) of this section pursuant to subdivision
54 (11) of subsection (a) of section 19a-14 of the general statutes, and (2) if
55 the department determines a violation was committed, may take
56 disciplinary action under section 19a-17 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	New section

Statement of Legislative Commissioners:

In Section 1(a)(1), "licensed pursuant to chapter 370 of the general statutes" was inserted after "assistant" and "licensed pursuant to chapter 378 of the general statutes" was inserted after "nurse" for clarity and consistency.

PH Joint Favorable Subst. -LCO

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

This bill prohibits a health care provider from performing an "intimate examination" on a patient who is unconscious or under deep sedation. The bill requires the Department of Public Health (DPH) to investigate any alleged violations of the bill's requirements. There is no fiscal impact as DPH has the expertise to handle the bill's requirements.

The Out Years**State Impact:** None**Municipal Impact:** None

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)