
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 435 Reengrossed

2020 Regular Session

Jordan

Abstract: Prohibits nonconsensual pelvic and rectal examinations on patients performed by healthcare providers and learners.

Proposed law provides definitions for the following terms: anesthesia, examination, healthcare provider, learner, patient, pelvic examination, rectal examination, and personal healthcare representative.

Proposed law provides that healthcare providers shall not perform a pelvic or rectal examination on an anesthetized or unconscious patient unless certain conditions have been met.

Those conditions are:

- (1) That written consent shall be given by the patient or personal healthcare representative to the examination and that the examination is necessary for instructional, preventive, diagnostic, or treatment purposes.
- (2) Informed consent has been given and the examination is within the scope of care for the patient.
- (3) The patient is unconscious and incapable of providing consent and the examination is medically necessary.

Proposed law provides that the healthcare provider who performs an examination pursuant to proposed law shall notify the patient that an additional examination was performed and the nature of the examination. Further provides that the patient shall be notified at a reasonable time before the patient is discharged from the healthcare provider's care.

Proposed law provides that any violation of proposed law may constitute grounds for adverse licensure action by the appropriate professional licensing board exercising jurisdiction over the healthcare provider.

Proposed law provides that a learner in a clinical setting shall only perform an examination on a patient who is under general anesthesia when all of the following conditions are met.

Those conditions are:

- (1) The examination is explicitly consented to by the patient.
- (2) The examination is medically related to the procedure the patient is undergoing.
- (3) The learner is recognized by the patient as a part of the patient's care team.
- (4) The examination was conducted under the direct supervision of an educator.

Proposed law provides that a learner who violates proposed law shall be subjected to adverse action by the medical education program and adverse licensure action by the appropriate professional licensing board for any licensed individual.

(Adds R.S. 40:1160.1-1160.4)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Clarify that a "healthcare provider" means a physician or other healthcare practitioner licensed, certified, registered, or otherwise authorized to perform specified healthcare services consistent with state law.
3. Add a definition that a "learner" means any person enrolled in a medical, nursing, or allied health education program including but not limited to a medical resident, intern, or student who is taking a course or participating in a clinical training or residency program.
4. Clarify the meaning of a pelvic or rectal examination.
5. State that a "personal healthcare representative" has the meaning ascribed in present law.
6. Clarify the conditions in which an examination may be performed on a patient who is under anesthesia.
7. Remove language relative to the patient signing a document to consent to having an additional examination performed during an already scheduled procedure.
8. Remove the criminal penalties for a healthcare provider associated with violating proposed law.
9. Add civil penalties for healthcare providers when violating proposed law.
10. Add requirements for an examination to be performed by learners when the patient is under general anesthesia.
11. Add civil penalties for learners when violating proposed law.