

HOUSE BILL 364

J2, J1

9lr0537
CF SB 909

By: Delegates Bagnall, Acevero, Arikan, Bartlett, Cain, Charkoudian, Chisholm, Feldmark, Guyton, Ivey, Johnson, Kerr, Kipke, Lehman, J. Lewis, R. Lewis, Malone, Metzgar, Moon, Palakovich Carr, Pendergrass, Reznik, Rogers, Shetty, Stewart, Terrasa, Wells, and ~~K. Young~~ K. Young, Barron, Bhandari, Carr, Charles, Hill, Kelly, Krebs, Morgan, Pena-Melnyk, Rosenberg, and Sample-Hughes

Introduced and read first time: January 30, 2019
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 26, 2019

CHAPTER _____

1 AN ACT concerning

2 **Health Care Practitioners – Medical Examinations on Anesthetized or**
3 **Unconscious Patients**

4 FOR the purpose of prohibiting health care practitioners and certain students and trainees
5 from performing certain examinations on a patient who is under anesthesia or
6 unconscious unless the health care practitioner, student, or trainee obtained
7 informed consent from the patient for the examination, the performance of the
8 examination is within the ~~scope~~ standard of care for the patient, ~~or~~ the patient is
9 unconscious and the examination is required for diagnostic or treatment purposes,
10 or an emergency exists, it is impractical to obtain the patient's consent, and the
11 examination is required for diagnostic or treatment purposes; authorizing certain
12 health occupations boards to take certain actions against certain health care
13 practitioners under certain circumstances and in accordance with certain hearing
14 provisions; defining a certain term; and generally relating to medical examinations
15 on anesthetized or unconscious patients.

16 BY adding to
17 Article – Health Occupations
18 Section 1–221.1
19 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~(2015~~ (2014 Replacement Volume and 2018 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
3 That the Laws of Maryland read as follows:

4 **Article – Health Occupations**

5 **1-221.1.**

6 (A) IN THIS SECTION, “HEALTH CARE PRACTITIONER” MEANS A PERSON
7 WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE ~~HEALTH~~
8 ~~OCCUPATIONS ARTICLE~~ THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE
9 ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

10 (B) A HEALTH CARE PRACTITIONER, OR A STUDENT OR TRAINEE IN AN
11 EDUCATIONAL OR TRAINING PROGRAM TO BECOME A HEALTH CARE PRACTITIONER,
12 MAY NOT PERFORM A PELVIC, PROSTATE, OR RECTAL EXAMINATION ON A PATIENT
13 WHO IS UNDER ANESTHESIA OR UNCONSCIOUS UNLESS:

14 (1) THE HEALTH CARE PRACTITIONER, STUDENT, OR TRAINEE
15 OBTAINED INFORMED CONSENT FROM THE PATIENT FOR THE EXAMINATION;

16 (2) THE PERFORMANCE OF THE EXAMINATION IS WITHIN THE ~~SCOPE~~
17 STANDARD OF CARE FOR THE PATIENT; ~~OR~~

18 (3) THE PATIENT IS UNCONSCIOUS AND THE EXAMINATION IS
19 REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES; OR

20 (4) AN EMERGENCY EXISTS, IT IS IMPRACTICAL TO OBTAIN THE
21 PATIENT’S CONSENT, AND THE EXAMINATION IS REQUIRED FOR DIAGNOSTIC OR
22 TREATMENT PURPOSES.

23 (C) A HEALTH OCCUPATIONS BOARD, IN ACCORDANCE WITH THE HEARING
24 PROCEDURES THAT GOVERN THE DISCIPLINE OF THE HEALTH CARE PRACTITIONER
25 UNDER THE BOARD’S JURISDICTION, MAY REPRIMAND, PLACE ON PROBATION, OR
26 SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A HEALTH CARE
27 PRACTITIONER UNDER THE BOARD’S JURISDICTION WHO FAILS TO COMPLY WITH
28 THE REQUIREMENTS OF THIS SECTION.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2019.