

Chapter 425

(Senate Bill 909)

AN ACT concerning

Health Care Practitioners – Medical Examinations on Anesthetized or Unconscious Patients

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

BY adding to

Article – Health Occupations

Section 1–221.1

Annotated Code of Maryland

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

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

Article – Health Occupations

1–221.1.

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

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

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

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

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

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

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

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

Approved by the Governor, May 13, 2019.