

SENATE BILL 909

J2, J1

(9lr3144)

ENROLLED BILL

— *Education, Health, and Environmental Affairs/Health and Government Operations* —

Introduced by **Senator Feldman**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

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

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.

Italics indicate opposite chamber/conference committee amendments.



1 provisions; defining a certain term; and generally relating to medical examinations
2 on anesthetized or unconscious patients.

3 BY adding to

4 Article – Health Occupations

5 Section 1–221.1

6 Annotated Code of Maryland

7 ~~2015~~ (2014 Replacement Volume and 2018 Supplement)

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

10 **Article – Health Occupations**

11 **1–221.1.**

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

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.