

HOUSE No. 4293

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 1, 2024.

The committee on Public Health to whom were referred the petition (accompanied by bill, Senate, No. 1333) of Joanne M. Comerford, Mindy Domb, Jason M. Lewis, John F. Keenan and other members of the General Court for legislation to prohibit nonconsensual intimate examinations of anesthetized or unconscious patients and the petition (accompanied by bill, House, No. 2146) of Mindy Domb, Kimberly N. Ferguson and others relative to prohibiting nonconsensual intimate examinations of anesthetized or unconscious patients, reports recommending that the accompanying bill (House, No. 4293) ought to pass.

For the committee,

MARJORIE C. DECKER.

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act prohibiting nonconsensual intimate examinations of anesthetized or unconscious patients.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 111 of the General Laws is hereby amended by inserting after section 70H the
2 following section:-

3 Section 70I. (a) For the purposes of this section, the following words shall have the
4 following meanings:

5 "Intimate examination", a pelvic, prostate or rectal examination.

6 "Health care provider", a physician, a student in a medical or nursing school participating
7 in a course of instruction, a person participating in a residency program or clinical training
8 program, a physician assistant, an advanced practice registered nurse or other health care
9 provider.

10 (b) A health care provider may not perform an intimate examination on an anesthetized,
11 deeply sedated or unconscious patient or supervise the performance of an intimate examination
12 on an anesthetized, deeply sedated or unconscious patient unless the patient or the patient's

13 representative has given specific informed consent in writing to the intimate examination using
14 an authorized informed consent form; or the intimate examination is immediately necessary for
15 diagnosis or treatment of the patient; or, in the case of an emergency or urgent care situation on
16 an unconscious patient, the intimate examination is required for diagnostic or treatment purposes.

17 (c) The department shall prepare one or more authorized informed consent forms to be
18 used by a health care provider before performing an intimate examination. The form may be used
19 in a paper or electronic format and shall be signed by the patient or the patient's representative
20 before an intimate examination is performed. The form shall be separate from any other notice or
21 agreement and shall clearly identify that it requests consent for an intimate examination. In
22 preparing the form, the department shall consider similar forms used in other states and consult
23 with providers, medical educators and persons concerned about patient rights to autonomy.

24 (d) Actions by a health care provider not in compliance with this section shall be
25 considered inconsistent or harmful to good patient care and safety under subsection (a) of section
26 203 of chapter 111.