

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 507 Session of 2023

INTRODUCED BY FIEDLER, HANBIDGE, HILL-EVANS, FRANKEL,
 SCHLOSSBERG, SCHLEGEL CULVER, GILLEN, OTTEN, CIRESI, RABB,
 SANCHEZ, GUENST, HOHENSTEIN, McNEILL, MADDEN, SAMUELSON,
 GALLOWAY, KRAJEWSKI, SHUSTERMAN, FREEMAN, KINKEAD, O'MARA,
 N. NELSON, T. DAVIS, D. WILLIAMS, PARKER, STEHR, KAZEEM,
 ISAACSON, SAPPEY, WEBSTER, SMITH-WADE-EL, WAXMAN, BOROWSKI,
 HADDOCK, MALAGARI, CEPHAS, MARKOSEK, STEELE, GIRAL, DAWKINS,
 DELLOSO, VENKAT, BURGOS, ROWE, SALISBURY, MAJOR, INNAMORATO,
 SCHMITT, ABNEY, MERSKI, KEEFER, BULLOCK AND CERRATO,
 MARCH 17, 2023

REFERRED TO COMMITTEE ON HEALTH, MARCH 17, 2023

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
 2 "An act reforming the law on medical professional liability;
 3 providing for patient safety and reporting; establishing the
 4 Patient Safety Authority and the Patient Safety Trust Fund;
 5 abrogating regulations; providing for medical professional
 6 liability informed consent, damages, expert qualifications,
 7 limitations of actions and medical records; establishing the
 8 Interbranch Commission on Venue; providing for medical
 9 professional liability insurance; establishing the Medical
 10 Care Availability and Reduction of Error Fund; providing for
 11 medical professional liability claims; establishing the Joint
 12 Underwriting Association; regulating medical professional
 13 liability insurance; providing for medical licensure
 14 regulation; providing for administration; imposing penalties;
 15 and making repeals," in medical professional liability,
 16 providing for informed consent in pelvic, rectal and prostate
 17 examinations.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 Section 1. The act of March 20, 2002 (P.L.154, No.13), known
 21 as the Medical Care Availability and Reduction of Error (Mcare)

1 Act, is amended by adding a section to read:

2 Section 504.1. Informed consent in pelvic, rectal and prostate
3 examinations.

4 (a) General rule.--A health care provider or student may not
5 knowingly perform any of the following examinations on a patient
6 who is anesthetized or unconscious in a facility that provides
7 health care services in the course of the health care provider
8 or student participating in or overseeing a professional
9 instruction or clinical training program, unless the patient or
10 the patient's authorized representative provides specific
11 informed consent to a health care provider, in verbal and
12 written form, prior to the examination:

13 (1) Pelvic examination.

14 (2) Rectal examination.

15 (3) Prostate examination.

16 (b) Exceptions.--Subsection (a) does not apply if:

17 (1) the examination is within the scope of care ordered
18 for the patient; or

19 (2) the examination is necessary in the case of a
20 medical emergency for the purpose of diagnosis or treatment
21 and the patient is incapable of providing informed consent
22 or, if the patient is incapable of providing informed consent
23 and has an authorized representative, the authorized
24 representative is unavailable to provide informed consent.

25 (c) Liability.--

26 (1) A health care provider shall be liable under section
27 504 for a violation of this section. In the event that a
28 student violates this section, the health care provider
29 overseeing the student's professional instruction or clinical
30 training program shall be liable under section 504.

1 (2) Notwithstanding paragraph (1), the university,
2 educational institution or other corporate entity that hosts
3 the professional instruction or clinical training program
4 shall be liable to an individual damaged by a violation of
5 this section as follows:

6 (i) Five hundred dollars for a first violation.

7 (ii) One thousand dollars for a second or subsequent
8 violation.

9 (d) Definitions.--As used in this section, the following
10 words and phrases shall have the meanings given to them in this
11 subsection:

12 "Health care provider." A primary health care center or a
13 person, including a corporation, university or other educational
14 institution licensed or approved by the Commonwealth to provide
15 health care or professional medical services as a physician, a
16 physician assistant, a certified nurse practitioner, a
17 registered nurse under section 3 of the act of May 22, 1951
18 (P.L.317, No.69), known as The Professional Nursing Law, who is
19 authorized under the registered nurse's scope of practice to
20 perform the procedure as delegated by the physician or a
21 registered nurse authorized to administer anesthesia under 49
22 Pa. Code § 21.17 (relating to anesthesia), a certified nurse
23 midwife, a podiatrist, hospital, nursing home, birth center and
24 an officer, employee or agent of any of them acting in the
25 course and scope of employment.

26 "Hospital." An entity licensed as a hospital under the act
27 of June 13, 1967 (P.L.31, No.21), known as the Human Services
28 Code, or the act of July 19, 1979 (P.L.130, No.48), known as the
29 Health Care Facilities Act.

30 "Patient." A natural person who receives or should have

1 received health care from a health care provider.

2 Section 2. This act shall take effect in 60 days.