
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 549 Session of
2023

INTRODUCED BY MUTH, COLLETT, PHILLIPS-HILL, HAYWOOD, FONTANA,
BREWSTER, KANE, SCHWANK, DILLON, TARTAGLIONE, DUSH, STREET,
COSTA, CAPPELLETTI, COMMITTA, KEARNEY, SAVAL AND SANTARSIERO,
MARCH 28, 2023

REFERRED TO HEALTH AND HUMAN SERVICES, MARCH 28, 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)
22 Act, is amended by adding a section to read:

23 Section 504.1. Informed consent in pelvic, rectal and prostate
24 examinations.

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

10 (1) Pelvic examination.

11 (2) Rectal examination.

12 (3) Prostate examination.

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

14 (1) the examination is within the scope of care ordered
15 for the patient; or

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

22 (c) Liability.--

23 (1) A health care provider shall be liable under section
24 504 for a violation of this section. In the event that a
25 student violates this section, the health care provider
26 overseeing the student's professional instruction or clinical
27 training program shall be liable under section 504.

28 (2) Notwithstanding paragraph (1), the university,
29 educational institution or other corporate entity that hosts
30 the professional instruction or clinical training program

1 shall be liable to an individual damaged by a violation of
2 this section as follows:

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

4 (ii) One thousand dollars for a second or subsequent
5 violation.

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

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

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

27 "Patient." A natural person who receives or should have
28 received health care from a health care provider.

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