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H.B. 89
135th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Hillyer and Abdullahi

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SUMMARY

- Prohibits registered nurses, advanced practice registered nurses, physician assistants, physicians, medical residents, or students from performing an intimate examination on an anesthetized or unconscious patient except under limited circumstances.
- Authorizes the appropriate licensing board to take disciplinary action if the provider violates the prohibition on intimate examinations.

DETAILED ANALYSIS

Intimate examinations

The bill prohibits a registered nurse (RN), an advanced practice registered nurse (APRN), physician assistant (PA), physician, medical resident, or student actively pursuing education to become an RN, APRN, PA, or physician from performing, or authorizing another to perform, an intimate examination on an anesthetized or unconscious patient.¹ Intimate examination is defined as a pelvic, prostate, or rectal examination.²

The bill permits an intimate examination on an anesthetized or unconscious patient in only the following circumstances:

1. The intimate examination is within the scope of care for the surgical procedure or diagnostic examination being performed;
2. The patient or the patient's legal representative gives specific, informed consent for the intimate examination; or

¹ R.C. 4723.93(B), 4730.57(B), and 4731.77(B).

² R.C. 4723.93(A), 4730.57(A), and 4731.77(A).

3. The intimate examination is required for diagnostic purposes or treatment.³

Informed consent

To obtain informed consent to perform an intimate examination on an anesthetized or unconscious patient as authorized by the bill, the provider must do the following:

1. Provide the patient or their legal representative with an informed consent form;
2. Provide the patient or their legal representative with a meaningful opportunity to ask questions about the intimate examination;
3. Obtain the signature of the patient or their legal representative on the informed consent form;
4. Sign the informed consent form;⁴
5. If an RN or APRN, the intimate examination must be conducted by a sexual assault nurse examiner for the purpose of collecting evidence and documenting injuries.⁵

The informed consent form may be written or electronic and must: (1) be a separate consent form or a distinct or separate section of a general consent form, (2) contain a heading at the top of the form or section "CONSENT FOR INTIMATE EXAMINATION," (3) specify the nature and purpose of the intimate examination, (4) inform the patient that students may be present if the patient or their legal representative authorizes, (5) allows the patient or legal representative the opportunity to consent to or refuse the intimate examination, and (6) provide opportunity to consent to or refuse a student performing or observing the examination.⁶

Enforcement

The bill authorizes the appropriate licensing board to take disciplinary action against a provider for violating the provisions prohibiting intimate examinations on unconscious or anesthetized patients. Disciplinary action may include: limiting, revoking, or suspending a license to practice; refusing to issue, renew, or reinstate a license; or reprimanding or placing on probation the license holder.⁷

³ R.C. 4723.93(C), 4730.57(C), and 4731.77(C).

⁴ R.C. 4723.93(D), 4730.57(D), and 4731.77(D).

⁵ R.C. 4723.93(D)(5); LSC staff had no opportunity to harmonize amendments that were adopted in committee; as a result, R.C. 4723.93(D)(5) appears out of order. It should appear in division (C) as a permissible reason for an intimate examination on an anesthetized or unconscious patient under "**Intimate examinations**" above. A corrective amendment is needed to address this issue.

⁶ R.C. 4723.93(D)(1), 4730.57(D)(1), and 4731.77(D)(1).

⁷ R.C. 4723.28, 4730.25, and 4731.22.

HISTORY

Action	Date
Introduced	03-07-23
Reported, H. Public Health Policy	11-26-24
Passed House (87-0)	12-04-24
