

# HOUSE BILL 364

J2, J1

9lr0537

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By: **Delegates Bagnall, Acevero, Arikan, Bartlett, Cain, Charkoudian, Chisholm, Feldmark, Guyton, Ivey, Johnson, Kerr, Kipke, Lehman, J. Lewis, R. Lewis, Malone, Metzgar, Moon, Palakovich Carr, Pendergrass, Reznik, Rogers, Shetty, Stewart, Terrasa, Wells, and K. Young**

Introduced and read first time: January 30, 2019

Assigned to: Health and Government Operations

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## A BILL ENTITLED

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 of care for the patient, or the patient is unconscious  
9 and the examination is required for diagnostic purposes; authorizing certain health  
10 occupations boards to take certain actions against certain health care practitioners  
11 under certain circumstances and in accordance with certain hearing provisions;  
12 defining a certain term; and generally relating to medical examinations on  
13 anesthetized or unconscious patients.

14 BY adding to  
15 Article – Health Occupations  
16 Section 1–221.1  
17 Annotated Code of Maryland  
18 (2015 Replacement Volume and 2018 Supplement)

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

21 **Article – Health Occupations**

22 **1–221.1.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(A) IN THIS SECTION, "HEALTH CARE PRACTITIONER" MEANS A PERSON**  
2 **WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH**  
3 **OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE ORDINARY**  
4 **COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.**

5           **(B) A HEALTH CARE PRACTITIONER, OR A STUDENT OR TRAINEE IN AN**  
6 **EDUCATIONAL OR TRAINING PROGRAM TO BECOME A HEALTH CARE PRACTITIONER,**  
7 **MAY NOT PERFORM A PELVIC, PROSTATE, OR RECTAL EXAMINATION ON A PATIENT**  
8 **WHO IS UNDER ANESTHESIA OR UNCONSCIOUS UNLESS:**

9           **(1) THE HEALTH CARE PRACTITIONER, STUDENT, OR TRAINEE**  
10 **OBTAINED INFORMED CONSENT FROM THE PATIENT FOR THE EXAMINATION;**

11           **(2) THE PERFORMANCE OF THE EXAMINATION IS WITHIN THE SCOPE**  
12 **OF CARE FOR THE PATIENT; OR**

13           **(3) THE PATIENT IS UNCONSCIOUS AND THE EXAMINATION IS**  
14 **REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES.**

15           **(C) A HEALTH OCCUPATIONS BOARD, IN ACCORDANCE WITH THE HEARING**  
16 **PROCEDURES THAT GOVERN THE DISCIPLINE OF THE HEALTH CARE PRACTITIONER**  
17 **UNDER THE BOARD'S JURISDICTION, MAY REPRIMAND, PLACE ON PROBATION, OR**  
18 **SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A HEALTH CARE**  
19 **PRACTITIONER UNDER THE BOARD'S JURISDICTION WHO FAILS TO COMPLY WITH**  
20 **THE REQUIREMENTS OF THIS SECTION.**

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