

# HOUSE BILL 364

J2, J1

(9lr0537)

## ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced 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~~ K. Young, Barron, Bhandari, Carr, Charles, Hill, Kelly, Krebs, Morgan, Pena-Melnyk, Rosenberg, and Sample-Hughes**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.  
\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

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~~ standard of care for the patient, ~~or~~ the patient is  
9 unconscious and the examination is required for diagnostic or treatment purposes,

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 or an emergency exists, it is impractical to obtain the patient's consent, and the  
 2 examination is required for diagnostic or treatment purposes; authorizing certain  
 3 health occupations boards to take certain actions against certain health care  
 4 practitioners under certain circumstances and in accordance with certain hearing  
 5 provisions; defining a certain term; and generally relating to medical examinations  
 6 on anesthetized or unconscious patients.

7 BY adding to

8 Article – Health Occupations

9 Section 1–221.1

10 Annotated Code of Maryland

11 ~~(2015~~ (2014 Replacement Volume and 2018 Supplement))

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

14 **Article – Health Occupations**

15 **1–221.1.**

16 (A) IN THIS SECTION, “HEALTH CARE PRACTITIONER” MEANS A PERSON  
 17 WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER ~~THE HEALTH~~  
 18 ~~OCCUPATIONS ARTICLE~~ THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE  
 19 ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

20 (B) A HEALTH CARE PRACTITIONER, OR A STUDENT OR TRAINEE IN AN  
 21 EDUCATIONAL OR TRAINING PROGRAM TO BECOME A HEALTH CARE PRACTITIONER,  
 22 MAY NOT PERFORM A PELVIC, PROSTATE, OR RECTAL EXAMINATION ON A PATIENT  
 23 WHO IS UNDER ANESTHESIA OR UNCONSCIOUS UNLESS:

24 (1) THE HEALTH CARE PRACTITIONER, STUDENT, OR TRAINEE  
 25 OBTAINED INFORMED CONSENT FROM THE PATIENT FOR THE EXAMINATION;

26 (2) THE PERFORMANCE OF THE EXAMINATION IS WITHIN THE ~~SCOPE~~  
 27 STANDARD OF CARE FOR THE PATIENT; ~~OR~~

28 (3) THE PATIENT IS UNCONSCIOUS AND THE EXAMINATION IS  
 29 REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES; OR

30 (4) AN EMERGENCY EXISTS, IT IS IMPRACTICAL TO OBTAIN THE  
 31 PATIENT'S CONSENT, AND THE EXAMINATION IS REQUIRED FOR DIAGNOSTIC OR  
 32 TREATMENT PURPOSES.

33 (C) A HEALTH OCCUPATIONS BOARD, IN ACCORDANCE WITH THE HEARING  
 34 PROCEDURES THAT GOVERN THE DISCIPLINE OF THE HEALTH CARE PRACTITIONER

1 UNDER THE BOARD'S JURISDICTION, MAY REPRIMAND, PLACE ON PROBATION, OR  
2 SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A HEALTH CARE  
3 PRACTITIONER UNDER THE BOARD'S JURISDICTION WHO FAILS TO COMPLY WITH  
4 THE REQUIREMENTS OF THIS SECTION.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.