

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 769

By Senators Chapman and Rucker

[Introduced February 13, 2024; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §30-3-21, relating to prohibiting certain medical practices; prohibiting medical
 3 providers from performing pelvic, prostate, rectal, and breast exams on an anesthetized or
 4 unconscious patient except in specified circumstances; and establishing an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-21. Prohibited examination; penalty.

1 (a) A medical practitioner, a student in training in a medical school, an intern, a resident, a
 2 graduate student, or an individual participating in a clinical training or resident program may not
 3 perform a pelvic, prostate, rectal, or breast examination on an anesthetized or unconscious patient
 4 unless one of the following conditions is met:

5 (1) The patient, the patient's guardian, or the patient's health care representative provides
 6 prior written informed consent to the pelvic, prostate, rectal, or breast examination.

7 (2) The performance of a pelvic, prostate, rectal, or breast examination is within the scope
 8 of care ordered for the surgical procedure or diagnostic examination to be performed on the
 9 patient and the patient, patient's guardian, or patient's health care representative has given prior
 10 written informed consent.

11 (3) A medical emergency exists and the pelvic, prostate, rectal, or breast examination is
 12 immediately necessary for diagnostic examination or treatment of the patient. The examination
 13 must be documented in all necessary medical charting and the patient, patient's guardian, or
 14 patient's health care representative must be informed of the examination in writing with
 15 explanation of necessity.

16 (4) A court has ordered the performance of the pelvic, prostate, rectal or breast
 17 examination for the purposes of the collection of evidence.

18 (b) A person who violates this section is guilty of sexual assault in the second degree as
 19 defined in section §61-8B-4 of this code.

20 (c) A person who violates this section is subject to suspension of his or her license or other
21 authorization to practice medicine and surgery for no less than five years, including limiting the
22 practice of that person to, or by the exclusion of, one or more areas of practice, including
23 limitations on practice privileges.

24 (d) A person who violates this section is subjected to a fine of no less than \$1,000 and no
25 more than \$10,000 to be deposited into the West Virginia Foundation for Rape Information and
26 Services.

27 (e) The provisions of this section are effective upon passage.

NOTE: The purpose of this bill is to prohibit certain medical practices; prohibit medical providers from performing pelvic, prostate, rectal, and breast exams on an anesthetized or unconscious patient except in specific circumstances; and establish an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.