

## **BILL ANALYSIS**

Senate Research Center  
87R17619 EAS-F

H.B. 1434  
By: Oliverson et al. (Zaffirini)  
Health & Human Services  
5/10/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Obtaining informed consent to certain medical procedures means that health professionals must inform patients of all the necessary information they should know before consenting to health care, protecting the patient's autonomy when making decisions about his or her health. In some cases, medical students in Texas have been directed to perform pelvic examinations without the patient's informed consent, for educational purposes on unconscious or anesthetized patients. H.B. 1434 would prohibit a health care practitioner from performing or delegating another to perform a pelvic examination on an unconscious or anesthetized patient unless the examination is within the standard scope of procedure and the patient or his or her legally authorized representative gives informed consent.

H.B. 1434 amends current law relating to limitations on pelvic examinations and authorizes disciplinary action, including an administrative penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 167A, as follows:

#### CHAPTER 167A. PELVIC EXAMINATIONS

Sec. 167A.001. DEFINITIONS. Defines "health care practitioner," "patient's legally authorized representative," and "pelvic examination."

Sec. 167A.002. LIMITATIONS ON CERTAIN PELVIC EXAMINATIONS. (a) Prohibits a health care practitioner from performing or delegating to another individual, including a student training to become a health care practitioner, the performance of a pelvic examination on an anesthetized or unconscious patient unless:

- (1) the pelvic examination is within the standard scope of a procedure or diagnostic examination scheduled to be performed on the patient;
- (2) the patient or the patient's legally authorized representative gives informed consent for the pelvic examination as provided by Subsection (b);
- (3) the pelvic examination is necessary for diagnosis or treatment of the patient's medical condition; or
- (4) the pelvic examination is for the purpose of collecting evidence.

(b) Requires a health care practitioner, to obtain informed consent to perform a pelvic examination on an unconscious or anesthetized patient, to:

- (1) provide the patient or the patient's legally authorized representative with a written or electronic informed consent form that:

(A) is authorized to be included as a distinct or separate section of a general informed consent form;

(B) contains the following heading at the top of the form in at least 18-point boldface type: "CONSENT FOR EXAMINATION OF PELVIC REGION";

(C) specifies the nature and purpose of the pelvic examination;

(D) informs the patient or the patient's legally authorized representative that a medical student or resident is authorized to be present if the patient or the patient's legally authorized representative authorizes the student or resident to:

(i) perform the pelvic examination; or

(ii) observe or otherwise be present at the pelvic examination, either in person or through electronic means;

(E) allows the patient or the patient's legally authorized representative the opportunity to consent to or refuse to consent to the pelvic examination; and

(F) allows a patient or a patient's legally authorized representative that consents to a pelvic examination under Paragraph (E) the opportunity to authorize or refuse to authorize:

(i) a medical student or resident to perform the pelvic examination; or

(ii) a medical student or resident to observe or otherwise be present at the pelvic examination, either in person or through electronic means;

(2) obtain the signature of the patient or the patient's legally authorized representative on the informed consent form; and

(3) sign the informed consent form.

Sec. 167A.003. DISCIPLINARY ACTION. Authorizes the appropriate licensing authority to take disciplinary action against a health care practitioner who violates Section 167A.002, including imposing an administrative penalty, as if the practitioner violated an applicable licensing law.

SECTION 2. Amends Section 164.052(a), Occupations Code, as follows:

(a) Provides that a physician or an applicant for a license to practice medicine commits a prohibited practice if that person:

(1) - (20) makes no changes to these subdivisions;

(21) and (22) makes nonsubstantive changes to these subdivisions; or

(23) performs or delegates to another individual the performance of a pelvic examination on an anesthetized or unconscious patient in violation of Section 167A.002, Health and Safety Code.

SECTION 3. Amends Section 301.452(b), Occupations Code, as follows:

(b) Provides that a person is subject to denial of a license or to disciplinary action under Subchapter J (Prohibited Practices and Disciplinary Actions) for:

(1) - (11) makes no changes to these subdivisions;

(12) makes a nonsubstantive change to this subdivision;

(13) performing or delegating to another individual the performance of a pelvic examination on an anesthetized or unconscious patient in violation of Section 167A.002, Health and Safety Code; or

(14) creates this subdivision from existing text and makes no further changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2021.