

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 595 - L.D. 790

An Act Clarifying Patient Consent for Certain Medical Examinations

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, legislation to require patient consent, in writing and orally, for certain medical examinations was enacted as emergency legislation on March 17, 2020; and

Whereas, this legislation clarifies that written informed consent is not required for those examinations performed on a conscious patient if oral consent is provided; and

Whereas, it is important for the clarification in this legislation to take effect as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24 MRSA §2905-B, as enacted by PL 2019, c. 602, §1, is amended to read:

§2905-B. Informed consent for pelvic, rectal or prostate examination ~~on anesthetized or unconscious patient~~

A health care practitioner may not perform a pelvic, rectal or prostate examination or supervise a pelvic, rectal or prostate examination performed by an individual practicing under the supervision of the health care practitioner on a patient without first obtaining the patient's specific informed consent, orally and in writing, to that pelvic, rectal or prostate examination, unless:

1. Unconscious patient; diagnostic purposes and medically necessary. In the case of an unconscious patient, the examination is required for diagnostic purposes and is medically necessary; or

2. Examination on unconscious alleged victim of sexual assault. The health care practitioner is authorized to perform the examination pursuant to section 2986, subsection 5; or

3. Conscious patient. The patient is conscious, in which case the health care practitioner shall obtain the patient's specific informed consent, orally, to that pelvic, rectal or prostate examination.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.