

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1948

H.P. 1392

House of Representatives, January 8, 2020

**An Act To Prohibit, Except in Emergency Situations, the
Performance without Consent of Pelvic Examinations on
Unconscious or Anesthetized Patients**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DOUDERA of Camden.
Cosponsored by Senator SANBORN, H. of Cumberland and
Representatives: CRAVEN of Lewiston, FARNSWORTH of Portland, MATLACK of St.
George, McCREIGHT of Harpswell, TERRY of Gorham, Senators: CHIPMAN of
Cumberland, MIRAMANT of Knox, SANBORN, L. of Cumberland.

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

2 Sec. 1. 32 MRSA §2600-G is enacted to read:

3 **§2600-G. Informed consent for pelvic examination on anesthetized or unconscious**
4 **patient**

5 An individual licensed under this chapter may not perform a pelvic examination or
6 supervise a pelvic examination performed by an individual practicing under the
7 supervision of the licensee on an anesthetized or unconscious patient without first
8 obtaining the patient's informed consent to the pelvic examination, unless:

9 **1. Scope of procedure or examination.** The performance of a pelvic examination is
10 within the scope of the surgical procedure or diagnostic examination to be performed on
11 the patient for which informed consent has otherwise been obtained;

12 **2. Unconscious patient; diagnostic purposes and medically necessary.** In the
13 case of an unconscious patient, the pelvic examination is required for diagnostic purposes
14 and is medically necessary; or

15 **3. Examination on unconscious alleged victim of sexual assault.** The licensee is
16 authorized to perform the pelvic examination pursuant to Title 24, section 2986,
17 subsection 5.

18 Sec. 2. 32 MRSA §3300-J is enacted to read:

19 **§3300-J. Informed consent for pelvic examination on anesthetized or unconscious**
20 **patient**

21 An individual licensed under this chapter may not perform a pelvic examination or
22 supervise a pelvic examination performed by an individual practicing under the
23 supervision of the licensee on an anesthetized or unconscious patient without first
24 obtaining the patient's informed consent to the pelvic examination, unless:

25 **1. Scope of procedure or examination.** The performance of a pelvic examination is
26 within the scope of the surgical procedure or diagnostic examination to be performed on
27 the patient for which informed consent has otherwise been obtained;

28 **2. Unconscious patient; diagnostic purposes and medically necessary.** In the
29 case of an unconscious patient, the pelvic examination is required for diagnostic purposes
30 and is medically necessary; or

31 **3. Examination on unconscious alleged victim of sexual assault.** The licensee is
32 authorized to perform the pelvic examination pursuant to Title 24, section 2986,
33 subsection 5.

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SUMMARY

This bill provides that, prior to administering or supervising a pelvic examination on an anesthetized or unconscious patient, a physician must obtain the patient's informed consent to the pelvic examination unless the examination is within the scope of the procedure or examination for which the patient has already consented, the pelvic examination of an unconscious patient is required for diagnostic purposes and is medically necessary or the pelvic examination is authorized pursuant to the implied consent provision in the Maine Health Security Act relating to forensic examinations of unconscious alleged victims of sexual assault.