

AMENDMENTS TO HOUSE BILL NO. 975

Sponsor: SENATOR MUTH

Printer's No. 3318

1 Amend Bill, page 1, line 2, by inserting after "offenses,"
2 providing for informed consent in pelvic, rectal and prostate
3 examinations and

4 Amend Bill, page 1, lines 8 through 10, by striking out all
5 of said lines and inserting

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 3108. Informed consent in pelvic, rectal and prostate
9 examinations.

10 (a) General rule.--A health care provider or student may not
11 knowingly perform any of the following examinations on a patient
12 who is anesthetized or unconscious in a facility that provides
13 health care services if the health care provider or student is
14 participating in a course of professional instruction or
15 clinical training program, unless the patient or the patient's
16 authorized representative provides specific informed consent, in
17 verbal and written form, prior to the examination:

18 (1) Pelvic examination.

19 (2) Rectal examination.

20 (3) Prostate examination.

21 (b) Exceptions.--Subsection (a) does not apply if:

22 (1) the examination is within the scope of care ordered
23 for the patient; or

24 (2) the examination is necessary in the case of a
25 medical emergency for the purpose of diagnosis or treatment
26 and the patient is incapable of providing informed consent
27 or, if the patient is incapable of providing informed consent
28 and has an authorized representative, the authorized
29 representative is unavailable to provide informed consent.

30 (c) Liability.--A person aggrieved by a violation of this
31 section may bring a civil action in a court of common pleas of
32 requisite jurisdiction. A court may award appropriate relief,
33 including temporary, preliminary and permanent injunctive
34 relief, an award of compensatory and punitive damages and an
35 award of reasonable attorney fees and costs. In lieu of actual
36 damages, the plaintiff may elect at any time prior to final
37 judgment, statutory damages of \$5,000 per violation.

1 (d) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 "Health care provider." A primary health care center or a
5 person, including a corporation, university or other educational
6 institution licensed or approved by the Commonwealth to provide
7 health care or professional medical services as a physician, a
8 certified nurse midwife, a podiatrist, hospital, nursing home,
9 birth center and an officer, employee or agent of any of them
10 acting in the course and scope of employment.

11 "Hospital." An entity licensed as a hospital under the act
12 of June 13, 1967 (P.L.31, No.21), known as the Human Services
13 Code, or the act of July 19, 1979 (P.L.130, No.48), known as the
14 Health Care Facilities Act.

15 "Patient." A natural person who receives or should have
16 received health care from a health care provider.

17 Section 2. Section 3124.2(a.5) of Title 18 is amended and
18 the section is amended by adding a subsection to read:

19 Amend Bill, page 4, line 2, by striking out "2" and inserting