

Legislative Analysis



PROHIBITION OF NONCONSENSUAL PELVIC EXAMINATIONS

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House Bill 4958 as reported from committee
Sponsor: Rep. Pamela Hornberger
1st Committee: Health Policy
2nd Committee: Ways and Means
Complete to 10-23-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4958 would amend Part 161 of the Public Health Code to prohibit a licensee or registrant¹ from performing a pelvic examination, or allowing a student in the course of studies for a health profession training program to perform a pelvic examination, on an anesthetized or unconscious patient.

However, a pelvic examination on an anesthetized or unconscious patient could be conducted in any of the following circumstances:

- The patient or patient's authorized representative provided written, informed consent to the pelvic examination and it was necessary for preventative, diagnostic, or treatment purposes.
- The patient or patient's authorized representative provided written, informed consent to a surgical procedure or diagnostic examination to be performed on the patient and the pelvic examination was within the scope of care for that procedure or examination.
- The patient was unconscious and incapable of providing informed consent and the pelvic examination was necessary for diagnostic or treatment purposes.
- A court ordered the pelvic examination in order to collect evidence.

Proposed MCL 333.16279

BRIEF DISCUSSION:

According to committee testimony, the bill was introduced in response to a concern that pelvic examinations were being performed on unconscious or anesthetized women, without their consent, for professional training purposes. At least eight states² have legislation in place to prohibit this practice unless the patient has provided informed consent and the examination is within the scope of care being provided or is required for diagnostic purposes.

¹ "Licensee or registrant," as used in Part 161 of the Public Health Code, applies to any licensee or registrant regulated by Article 15 (Occupations) of the code.

² California, Hawaii, Illinois, Iowa, Maryland, Oregon, Utah and Virginia.

FISCAL IMPACT:

House Bill 4958 would not have a significant fiscal impact on any unit of state or local government.

POSITIONS:

The following organizations indicated support for the bill:

Michigan Coalition to End Domestic and Sexual Violence (10-10-19)

American College of Obstetricians and Gynecologists (10-10-19)

Michigan Health and Hospital Association (10-17-19)

American Association of University Women (10-17-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.