

1 H.861

2 Introduced by Representatives Cina of Burlington, Cordes of Lincoln, Page of  
3 Newport City, and Rachelson of Burlington

4 Referred to Committee on

5 Date:

6 Subject: Health; health care professional; medical students; medical  
7 examinations; anesthesia; informed consent

8 Statement of purpose of bill as introduced: This bill proposes to prohibit a  
9 health care professional or medical student from performing a medical  
10 examination on a patient under anesthesia without the patient's informed  
11 consent, except in the case of emergency.

12 An act relating to prohibiting medical examinations under anesthesia  
13 without informed consent

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 18 V.S.A. chapter 44 is added to read:

16 CHAPTER 44. DUTIES OF HEALTH CARE PROFESSIONALS

17 § 1951. DEFINITIONS

18 As used in this chapter:

19 (1) “Health care professional” means:

20 (A) a physician licensed pursuant to 26 V.S.A. chapter 23 or 33;

1           (B) an advanced practice registered nurse licensed pursuant to  
2           26 V.S.A. chapter 28, subchapter 2; or

3           (C) a physician assistant licensed pursuant to 26 V.S.A. chapter 31.

4           (2) “Informed consent” has the same meaning as in section 9701 of this  
5           title.

6           § 1952. INFORMED CONSENT FOR PATIENT EXAMINATION UNDER

7           ANESTHESIA

8           (a) A health care professional, resident, or student undertaking a course of  
9           professional instruction or a clinical training program shall not perform an  
10           examination on a patient who is anesthetized or unconscious in a hospital or  
11           other health care facility unless one or more of the following conditions apply:

12           (1) the patient has given specific informed consent for the examination  
13           to be performed;

14           (2) the examination is necessary for diagnostic or treatment purposes  
15           and is within the scope of care for the patient’s illness, condition, or disease; or

16           (3) a court orders the performance of the examination for the collection  
17           of evidence.

18           (b) A student undertaking a course of professional instruction or a clinical  
19           training program shall not perform or participate in the performance of an  
20           examination on a patient who is anesthetized or unconscious in a hospital or

1 other health care facility unless the patient has given specific informed consent  
2 for the student to perform or participate in the performance of the examination.

3 (c) The provisions of subsection (a) of this section shall not apply in an  
4 emergency situation in which it is impracticable to obtain the patient's specific  
5 informed consent prior to performing the examination.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on July 1, 2020.