

1503

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the use of live human subjects on the dental licensing examination

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2440 of the public health law, as added by chapter
2 450 of the laws of 1975, is amended to read as follows:
3 S 2440. Policy and purpose. The use of human subjects in medical
4 research projects has brought about many beneficial scientific advances
5 resulting in the increased health and well-being of the human race.
6 Safeguarding the rights and welfare of individual human subjects in the
7 conduct of these human research projects is a matter of vital state
8 concern. Every human being has the right to be protected against the
9 possible conduct of medical or psychological research upon his body
10 without his voluntary informed consent. Human research may effect
11 dangerous and unanticipated results causing irreversible damage to the
12 human subject. Accordingly, it shall be the policy of this state to
13 protect its people against the unnecessary and improper risk of pain,
14 suffering or injury resulting from human research conducted without
15 their knowledge or consent. IN ADDITION, THE USE OF LIVE HUMAN SUBJECTS
16 AS SURGICAL SUBJECTS UPON WHOM UNLICENSED PERSONS OPERATE AS PART OF THE
17 STATE DENTAL PROFESSIONAL LICENSING EXAMINATION IS CONTRARY TO THE POLI-
18 CY OF THIS STATE TO PROTECT LIVE HUMAN SUBJECTS FROM UNNECESSARY AND
19 IMPROPER RISK OF PAIN, SUFFERING OR INJURY. SUCH LIVE HUMAN SUBJECTS
20 USED FOR SURGICAL PURPOSES ON THE STATE DENTAL LICENSING EXAMINATION ARE
21 ENTITLED TO THE SAME PROTECTIONS AS ANY OTHER LIVE HUMAN RESEARCH
22 SUBJECT. IN ADDITION, THE OVERWHELMING NUMBER OF THESE LIVE HUMAN
23 SUBJECTS SUBJECTED TO SURGERY BY UNLICENSED PERSONS AS PART OF THE STATE
24 DENTAL LICENSING EXAMINATION COME FROM THE POOR AND MINORITY COMMUNITIES

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 OF THE STATE. NEITHER MEDICINE NOR PODIATRY, THE ONLY OTHER SURGICAL
2 PROFESSIONS IN THE STATE, USES SUCH A BARBARIC AND DISCRIMINATORY
3 LICENSING EXAMINATION. THE LEGISLATURE HEREBY DETERMINES THAT THE USE
4 OF SUCH LIVE HUMAN SUBJECTS AS SURGICAL SUBJECTS OPERATED ON BY UNLI-
5 CENSED PERSONS ON THE STATE DENTAL LICENSING EXAMINATION IS A POTENTIAL-
6 LY DANGEROUS PRACTICE AND, IF CONTINUED AT ALL, SHOULD BE SUBJECT TO THE
7 PROVISIONS OF THIS CHAPTER.

8 S 2. Section 2445 of the public health law, as added by chapter 450 of
9 the laws of 1975, is amended to read as follows:

10 S 2445. Applicability. The provisions of this article shall not apply
11 to the conduct of human research which is subject to, and which is in
12 compliance with, policies and regulations promulgated by any agency of
13 the federal government for the protection of human subjects. NOTWITH-
14 STANDING ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS ARTICLE
15 SHALL APPLY TO THE USE OF LIVE HUMAN SUBJECTS ON THE STATE DENTAL
16 LICENSING EXAMINATION, AND NO SUCH LIVE HUMAN SUBJECTS SHALL BE USED ON
17 THE STATE DENTAL LICENSING EXAMINATION UNLESS ALL THE REQUIREMENTS FOR
18 RESEARCH ON LIVE HUMAN SUBJECTS CONTAINED IN THIS ARTICLE AND IN THE
19 RULES AND REGULATIONS OF THE COMMISSIONER ARE COMPLIED WITH.

20 S 3. This act shall take effect immediately.