STATE OF NEW YORK

1092--E

Cal. No. 454

2019-2020 Regular Sessions

IN SENATE

January 10, 2019

Introduced by Sens. PERSAUD, BIAGGI, BOYLE, CARLUCCI, HOYLMAN, KAPLAN, KRUEGER, MARTINEZ, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law and the education law, in relation to prohibiting the performance of a pelvic examination on an anesthetized or unconscious person

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2504 of the public health law is amended by adding a new subdivision 7 to read as follows:

7. No person shall perform a pelvic examination or supervise the performance of a pelvic examination on an anesthetized or unconscious patient unless the person performing the pelvic examination is legally authorized to do so and the person supervising the performance of the pelvic examination is legally authorized to do so and:

(a) the patient or the patient's authorized representative gives prior oral or written informed consent specific to the pelvic examination;

(b) the performance of a pelvic examination is within the scope of care for the surgical procedure or diagnostic examination scheduled to be performed on the patient and to which the patient has already given oral or written consent; or

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

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(c) the patient is unconscious and the pelvic examination is medically necessary for diagnostic or treatment purposes, and the patient is in immediate need of medical attention and an attempt to secure consent would result in a delay of treatment which would increase the risk to the patient's life or health.

Nothing in this subdivision diminishes any other requirement to obtain informed consent for a pelvic examination or any other procedure.

§ 2. The public health law is amended by adding a new section 230-e to read as follows:

§ 230-e. Unauthorized pelvic examinations. For the purposes of this title, professional misconduct shall include pelvic examinations or supervising the performance of a pelvic examination in violation of subdivision seven of section twenty-five hundred four of this chapter.

§ 3. Section 6530 of the education law is amended by adding a new subdivision 50 to read as follows:

50. Performing a pelvic examination or supervising the performance of a pelvic examination in violation of subdivision seven of section twenty-five hundred four of the public health law.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.