

SENATE BILL NO. 250

INTRODUCED BY J. COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING PERFORMANCE OF SENSITIVE MEDICAL EXAMINATIONS WITHOUT OBTAINING INFORMED CONSENT; PROVIDING EXCEPTIONS; AND PROVIDING PENALTIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Performance of sensitive medical examinations -- informed consent required. (1) A ~~physician licensed under this chapter~~ PERSON LICENSED OR CERTIFIED UNDER THIS TITLE TO PROVIDE HEALTH CARE may not knowingly perform or supervise the performance of a breast, pelvic, urogenital, prostate, or rectal examination on a patient who is anesthetized or unconscious unless:

- (a) the patient or a person authorized to make health care decisions for the patient has provided specific informed consent to the examination;
- (b) the examination is within the scope of care for a procedure or diagnostic examination scheduled to be performed on the patient; or
- (c) an emergency exists, it is impracticable to obtain consent, and the examination is necessary for diagnostic or treatment purposes.

(2) Violation of subsection (1) constitutes unprofessional conduct.

~~**NEW SECTION. Section 2. Performance of sensitive medical examinations -- informed consent required.** (1) An advanced practice registered nurse licensed under this chapter may not knowingly perform or supervise the performance of a breast, pelvic, urogenital, prostate, or rectal examination on a patient who is anesthetized or unconscious unless:~~

- ~~(a) the patient or a person authorized to make health care decisions for the patient has provided specific informed consent to the examination;~~
- ~~(b) the examination is within the scope of care for a procedure or diagnostic examination scheduled to~~

1 ~~be performed on the patient; or~~

2 ~~(c) an emergency exists, it is impracticable to obtain consent, and the examination is necessary for~~
3 ~~diagnostic or treatment purposes.~~

4 ~~(2) Violation of subsection (1) is punishable pursuant to 37-8-443.~~

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6 **NEW SECTION. Section 2. Codification instruction.** ~~(1)~~ [Section 1] is intended to be codified as an
7 integral part of Title 37, chapter ~~3~~ 2, part 3, and the provisions of Title 37, chapter ~~3~~ 2, part 3, apply to [section
8 1].

9 ~~(2) [Section 2] is intended to be codified as an integral part of Title 37, chapter 8, part 4, and the~~
10 ~~provisions of Title 37, chapter 8, part 4, apply to [section 2].~~

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