

HOUSE BILL NO. 417

INTRODUCED BY J. COHENOUR, F. SMITH, J. WINDY BOY, S. STEWART PEREGOY, M. LANG, B. BROWN, M. DUNWELL, D. HAYMAN, T. MANZELLA, C. POPE, S. WEBBER, S. HINEBAUCH, D. FERN, D. LOGE, R. FITZGERALD, J. TREBAS, B. USHER, J. HAMILTON, B. BEARD, J. SMALL, N. DURAM, R. KNUDSEN, J. DOOLING, D. HARVEY, E. KERR-CARPENTER, M. MARLER, C. KEOGH, K. SULLIVAN, K. ZOLNIKOV, L. REKSTEN, E. STAFMAN, K. KORTUM, M. BERTOGLIO, D. HAWK, M. BINKLEY, T. FRANCE, M. THANE, C. FRIEDEL, S. ESSMANN, R. MINER, E. MATTHEWS, C. SPRUNGER, P. TUSS, J. BERGSTROM, G. KMETZ, D. BAUM, J. LYNCH, M. ROMANO, S. HOWELL, J. KARLEN, B. CARTER, Z. ZEPHYR, D. EMRICH, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE 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 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.

