

## **BILL ANALYSIS**

C.S.H.B. 1434  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Informed consent to certain medical procedures means that health care professionals must inform patients of all the necessary information a patient should know before consenting to health care. Informed consent protects a patient's autonomy when making decisions affecting the patient's health. In some cases, medical students in Texas are able to perform pelvic examinations, without the person's informed consent, for educational purposes on patients who are anesthetized or unconscious. C.S.H.B. 1434 seeks to prohibit a health care practitioner from performing or delegating to another individual the performance of a pelvic examination on an anesthetized or unconscious patient unless the pelvic exam is within the standard scope of procedure and the patient or the patient's legally authorized representative gives informed consent under certain conditions.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1434 amends the Health and Safety Code to prohibit a licensed health care practitioner from performing or delegating to another individual, including a student training to become a health care practitioner, the performance of a pelvic examination on an anesthetized or unconscious patient unless:

- the examination is within the standard scope of a procedure or diagnostic examination scheduled to be performed on the patient;
- the patient or the patient's legally authorized representative gives informed consent for the examination;
- the examination is necessary for diagnosis or treatment of the patient's medical condition; or
- the examination is for the purpose of collecting evidence.

A practitioner, in order to obtain informed consent, must provide the patient or the patient's legally authorized representative with a written or electronic informed consent form as described by the bill, obtain the signature of the patient or the patient's legally authorized representative on the form, and sign the form. The bill authorizes an appropriate licensing authority to take disciplinary action against a health care practitioner who violates these provisions of the bill, including imposing an administrative penalty, as if the practitioner violated an applicable licensing law.

C.S.H.B. 1434 amends the Occupations Code to include performing or delegating to another individual the performance of a pelvic examination in violation of the bill's prohibition as a prohibited practice for a physician, applicant for a medical license, or nurse, as applicable, that is grounds for disciplinary action or denial of the license.

**EFFECTIVE DATE**

September 1, 2021.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1434 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a definition of "patient's legally authorized representative."

The substitute does not include a specification that a pelvic examination for purposes of collecting evidence is ordered by a court.

The substitute does not include a requirement that the written or electronic informed consent form be provided separately from any other notice or agreement but includes an authorization for the form to be included as a distinct or separate section of a general informed consent form.

The substitute includes a requirement that the informed consent form allow a patient or the patient's legally authorized representative to refuse to authorize a medical student or resident to perform, observe, or otherwise be present during a pelvic examination.