

1 AN ACT relating to informed consent for medical examinations.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Health care provider" means an individual licensed by the Kentucky
7 Board of Medical Licensure or the Kentucky Board of Nursing, pursuant to
8 KRS Chapter 311 or 314, whose scope of practice allows the performance or
9 supervision of a pelvic, rectal, or prostate examination;

10 (b) "Informed consent" means the signing of an intimate exam consent form
11 following a discussion process by which a patient or a person authorized to
12 make health care decisions for a patient willingly accepts a
13 recommendation for examination or treatment by a health care provider
14 upon disclosure of pertinent information about the examination or
15 treatment that satisfies the following conditions:

16 1. It is conducted in plain language that is understandable to a
17 layperson;

18 2. It includes a description of the nature and components of the
19 examination or treatment, the risks and benefits of the examination or
20 treatment, alternatives to the examination or treatment, and the
21 patient's right to refuse an examination or treatment or to revoke
22 consent after it has been given; and

23 3. It includes the identity and training status of individuals, including
24 students, who may be involved in the patient's care; and

25 (c) "Intimate exam consent form" means a separate medical examination form
26 memorializing an informed consent discussion that is signed by the patient
27 or a person authorized to make health care decisions for the patient, that

1 satisfies the following conditions:

2 1. It is written in plain language that is understandable to a layperson;

3 and

4 2. It includes the elements of informed consent as described in
5 paragraph (b) of this subsection.

6 (2) A health care provider shall not knowingly perform or supervise the performance
7 of a pelvic, rectal, or prostate examination on a patient who is anesthetized or
8 unconscious unless one (1) of the following applies:

9 (a) The patient or a person authorized to make health care decisions for the
10 patient has given prior informed consent to the examination;

11 (b) The patient is unconscious and incapable of providing prior informed
12 consent, and the examination is necessary for diagnostic or treatment
13 purposes;

14 (c) The examination is within the scope and standard of care for a procedure or
15 diagnostic examination to be performed on the patient to which the patient
16 has given prior informed consent; or

17 (d) A court of competent jurisdiction orders the performance of the
18 examination for the collection of evidence and the order is issued in
19 compliance with all of the following provisions:

20 1. The court finds that there is a compelling need for the examination
21 that cannot be accommodated by other means. In assessing
22 compelling need, the court shall weigh the need for the examination
23 and the disclosure of the results against the privacy interest of the
24 individual to be examined; and

25 2. Pleadings pertaining to the ordering of the examination shall
26 substitute a pseudonym for the true name of the subject of the
27 examination. The true name shall be communicated confidentially to

- 1 the court and kept under seal of the court.
- 2 (3) A health care provider shall notify the patient as soon as reasonably practicable
- 3 that an examination under subsection (2) of this section was performed.
- 4 (4) A health care provider who violates subsection (2) of this section shall be subject
- 5 to discipline by the appropriate professional licensing or certification board.