

Non-Consensual Pelvic Examinations

By: Nicole Dube, Principal Analyst
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Issue

Provide information on states that prohibit physicians-in-training and medical students from performing pelvic examinations on women who are under anesthesia or unconscious without their prior consent. (This report updates OLR Report [2004-R-0512](#).)

Summary

Physicians-in-training and medical students, as part of their professional training, may sometimes be allowed to perform pelvic examinations in a teaching hospital when a female patient is unconscious or anesthetized and has not given prior consent to the examination. Some patients and advocacy groups have raised legal and ethical concerns with this practice, citing the need to require more specific patient approval before conducting the examination. Generally, consent forms at teaching hospitals include language to inform the patient that they are receiving care from a teaching hospital and that medical students may be involved in their care. But they generally do not indicate that procedures, such as pelvic examinations, may be performed for educational, and not therapeutic purposes.

We were unable to find information on how many teaching hospitals utilize this practice. We found laws in six states (California, Hawaii, Illinois, Iowa, Oregon, and Virginia) that expressly limit physicians and medical students from performing pelvic examinations on anesthetized or unconscious patients for training purposes. Generally, these states' laws prohibit this practice unless a female patient provides prior informed consent and the examination is within the scope of the care being provided to the patient or is required for diagnostic purposes.

States With Laws Prohibiting Non-Consensual Pelvic Examinations

California

In 2003, the legislature enacted a law that prohibits a physician, surgeon, or medical student completing a professional instruction course or clinical training program, from performing a pelvic examination on an anesthetized or unconscious female patient unless (1) the patient gave informed consent, (2) the pelvic examination is within the scope of care for the surgical procedure or diagnostic examination to be performed on the patient, or (3) if the patient is unconscious, the pelvic examination is required for diagnostic purposes ([Cal. Bus. & Prof. Code § 2281](#)).

Hawaii

A 2012 law prohibits an allopathic or osteopathic physician, surgeon, medical student, or resident from performing a pelvic examination on an anesthetized or unconscious female patient unless (1) the patient gives prior written or verbal informed consent, (2) performing the examination is within the scope of care of the surgical procedure or diagnostic examination scheduled to be performed on the patient, or (3) the patient is unconscious and the pelvic examination is required for diagnostic purposes ([Haw. Rev. Stat. § 453-18](#)).

Illinois

In 2004, the Illinois legislature amended the state's Medical Patient Rights Act to require a physician, medical student, resident, advanced practice registered nurse, registered nurse, or physician assistant who treats or cares for a patient, to inform the patient of his or her profession when providing the treatment or care, which includes pelvic examinations. If the patient is unconscious, the pelvic examination must be related to the patient's illness, condition, or disease ([410 Ill. Comp. Stat. 50/7](#)).

Iowa

A 2017 Iowa law prohibits licensed or certified health professionals, or students training in these professions, from performing a pelvic examination on an anesthetized or unconscious patient unless:

1. the patient or her authorized representative provides prior written informed consent and the pelvic examination is necessary for preventive, diagnostic, or treatment purposes;

2. the pelvic examination is within the scope of care for a surgical procedure or diagnostic examination that the patient or her authorized representative provided prior written informed consent to;
3. the patient is unconscious and incapable of providing informed consent and the pelvic examination is necessary for diagnostic or treatment purposes; or
4. a court ordered the pelvic examination to collect evidence ([Iowa Code § 147.114](#)).

Violators of the law are (1) guilty of a serious misdemeanor, punishable by a fine of between \$315 and \$1,875 and up to one year in jail and (2) subject to professional disciplinary action (Iowa Code §§ [903.1](#) and [147.86](#)).

Oregon

A 2011 Oregon law prohibits someone from knowingly performing a pelvic examination on a female patient who is anesthetized or unconscious in a hospital or medical clinic unless (1) the patient or the patient's authorized representative gave informed consent to the examination, (2) the examination is necessary for diagnostic or treatment purposes, or (3) a court orders the examination in order to collect evidence.

Violators of the law are subject to discipline by their professional licensing board ([Or. Rev. Stat. § 676.360](#)).

Virginia

A 2007 Virginia law prohibits medical students from performing a pelvic examination on an anesthetized or unconscious female patient unless (1) the patient or her authorized agent gives informed consent, (2) the exam is within the scope of care ordered for the patient, or (3) if the patient is incapable of giving informed consent, the examination is necessary to diagnose or treat the patient ([Va. Code. § 54.1-2959](#)).

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