LEGISLATIVE COMMITTEE MINUTES

SB117

Bill as Introduced

SB 117 - AS INTRODUCED

2019 SESSION

19-0919
01/05

SENATE BILL ***117***

AN ACT relative to certain procedures conducted in teaching hospitals.

SPONSORS: Sen. Bradley, Dist 3; Sen. Birdsell, Dist 19; Sen. Carson, Dist 14; Sen. D'Allesandro, Dist 20; Sen. Fuller Clark, Dist 21; Sen. Giuda, Dist 2; Sen. Gray, Dist 6; Sen. Morse, Dist 22; Sen. Ward, Dist 8; Sen. Watters, Dist 4

COMMITTEE: Health and Human Services

ANALYSIS

This bill prohibits a physician or surgeon or a student undertaking a course of professional instruction from performing a pelvic examination on an anesthetized or unconscious female patient unless such examination is within the scope of care for the surgical procedure.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 117 - AS INTRODUCED

19-0919
01/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to certain procedures conducted in teaching hospitals.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Physicians and Surgeons; Certain Examination Prohibited. Amend RSA 329 by inserting after section 1-d the following new section:

329:1-e Pelvic Examination on Anesthetized or Unconscious Female Patient Prohibited. A physician, surgeon, or student undertaking a course of professional instruction or a clinical training program, shall not perform a pelvic examination on an anesthetized or unconscious female patient unless the patient gave informed consent to the pelvic examination, or the performance of a pelvic examination is within the scope of care for the surgical procedure or diagnostic examination to be performed on the patient or, in the case of an unconscious patient, the pelvic examination is required for diagnostic purposes.

2 Effective Date. This act shall take effect January 1, 2020.

Amendments

Sen. Bradley, Dist 3
February 4, 2019
2019-0263s
01/06

Amendment to SB 117

Amend RSA 329:1-e as inserted by section 1 of the bill by replacing it with the following:

329:1-e Pelvic Examination on Anesthetized or Unconscious Female Patient Prohibited. A physician, surgeon, or student undertaking a course of professional instruction or a clinical training program, shall not perform a pelvic examination on an anesthetized or unconscious female patient unless the patient gave informed consent to the pelvic examination, or the performance of a pelvic examination is standard practice as part of the surgical procedure or diagnostic examination to be performed on the patient for which appropriate informed consent was obtained or, the pelvic examination is required for diagnostic purposes. This section shall not be construed to prohibit the appropriate evaluation of an unconscious female patient to rule out ruptured ectopic pregnancy in emergency settings.

2019-0263s

AMENDED ANALYSIS

This bill prohibits a physician or surgeon or a student undertaking a course of professional instruction from performing a pelvic examination on an anesthetized or unconscious female patient unless such examination is standard practice for the surgical procedure.

Committee Minutes

SENATE CALENDAR NOTICE
Health and Human Services

Sen Tom Sherman, Chair
Sen Martha Fuller Clark, Vice Chair
Sen Shannon Chandley, Member
Sen Jeb Bradley, Member
Sen James Gray, Member

Date: March 7, 2019

HEARINGS

Tuesday	03/12/2019
(Day)	(Date)

Health and Human Services	LOB 101	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

1:30 p.m.	**SB 33**	relative to the therapeutic use of cannabis.
2:00 p.m.	**SB 175**	relative to qualifying medical conditions for therapeutic cannabis.
2:30 p.m.	**SB 85**	reestablishing the commission to study environmentally-triggered chronic illness.
2:45 p.m.	**SB 120**	relative to the controlled drug prescription health and safety program.
3:00 p.m.	**SB 117**	relative to certain procedures conducted in teaching hospitals.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 33			
Sen. Reagan			
SB 175			
Sen. Reagan	Rep. Roy		
SB 85			
Sen. Sherman	Sen. Fuller Clark	Rep. Murphy	Rep. Salloway
SB 120			
Sen. Giuda	Sen. Carson	Sen. Fuller Clark	Rep. Marsh
SB 117			
Sen. Bradley	Sen. Birdsell	Sen. Carson	Sen. D'Allesandro
Sen. Fuller Clark	Sen. Giuda	Sen. Gray	Sen. Morse
Sen. Ward	Sen. Watters		

Doug Marino 271-8631

Tom Sherman
Chairman

Senate Health and Human Services Committee

Doug Marino 271-8631

SB 117, relative to certain procedures conducted in teaching hospitals.

Hearing Date: March 12, 2019

Time Opened: 4:06 p.m. **Time Closed:** 4:31 p.m.

Members of the Committee Present: Senators Sherman, Fuller Clark, Chandley, Bradley and Gray

Members of the Committee Absent : None

Bill Analysis: This bill prohibits a physician or surgeon or a student undertaking a course of professional instruction from performing a pelvic examination on an anesthetized or unconscious female patient unless such examination is within the scope of care for the surgical procedure.

Sponsors:

Sen. Bradley	Sen. Birdsell	Sen. Carson
Sen. D'Allesandro	Sen. Fuller Clark	Sen. Giuda
Sen. Gray	Sen. Morse	Sen. Ward
Sen. Watters		

Who supports the bill: Senator Sharon Carson (District 14), Senator Ruth Ward (District 8), Senator Martha Fuller Clark (District 21), Senator Regina Birdsell (District 19), Senator James Gray (District 6),

Who opposes the bill: None

Who is neutral on the bill: None

Summary of testimony presented:

Senator Jeb Bradley, District 3

- Senate Bill 117 would ban a pelvic examination on an anesthetized or unconscious patient.
- Other states have adopted a similar measure.
- Senator Bradley is proposing an amendment which adds an exemption to the bill if there is the possibility of a ruptured ectopic pregnancy.
- Opponents of the legislation have pointed out that this will only apply to one facility in New Hampshire, which is Dartmouth-Hitchcock. At Dartmouth-Hitchcock, they obtain informed consent before conducting a pelvic exam. Opponents believe that this bill is therefor not necessary. Senator Bradley disagrees with that assessment.

- Opponents have also raised concerns that it will hinder the practice of medicine. Senator Bradley does not agree with that assessment either. Physicians will simply be required to obtain informed consent.
- Senator Sherman asked if this is currently prohibited under criminal law. Senator Bradley indicated that it is not.
- Senator Sherman asked if this prohibition is already covered under tort laws. Senator Bradley stated that this practice continues to go on in other states despite tort law.
- Senator Sherman stated that he is repulsed by the practice of pelvic exams on unconscious patients.
- Senator Sherman asked Senator Bradley if he is concerned about setting a precedent that the legislature can govern medicine. Senator Bradley stated that he has no such concern.

Matthew Houde, Dartmouth-Hitchcock

- Mr. Houde indicated that this practice does not occur at Dartmouth-Hitchcock without informed consent.
- Mr. Houde is concerned that there could be unintended consequences associated with this legislation. The scope of practice is not defined in the bill.

Dr. Oge Young, Concord (Provided written testimony)

- Dr. Young is opposed to SB 117.
- Dr. Young's medical students perform medical exams only with the consent of the patient.
- He is concerned that adopting this bill could threaten the privacy of patients.
- The legislation is not necessary because this practice does not occur in New Hampshire.
- Senator Gray noted that it appears that there are other institutions other than Dartmouth which provide medical education.

Paula Minnehan, NH Hospital Association (Provided written testimony)

- The Hospital Association opposes SB 117.
- House Bill 422, which is very similar to this bill, was ITL'd by the House of Representatives.
- The association believes that this bill impacts more than just teaching hospitals.
- They are also concerned that this bill would start the precedent that the legislature can govern medical care.

DLM
Date Hearing Report completed: March 14, 2019

Speakers

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

Date: March 12, 2019 **Time:** 3:00PM **Public Hearing on** SB 117

SB 117 –

Please check box(es) that apply:

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
☐	☒	☐	SENATOR SHARON CARSON	SD#14
☐	☑	☐	Sen Mark Wood	SD#8
☐	☑	☐	Sen Fuller Clark	SD#21
☐	☑	☐	Sen Regina Birdsell	SD#19
☐	☑	☐	Sen James Gray	SD#6
✓	☑	☐	☐ Matthew Houde	
✓	☑	☐	☑ Joe Young MD.	DHHS NHHS
✓	☑	☐	☑ Paul Minehan	NH Hosp Assoc
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		

Testimony

MEDICAL EXAMINER

Why Are Pelvic Exams on Unconscious, Unconsenting Women Still Part of Medical Training?

We understand consent better than ever. So why haven't we ended this practice?

By PHOEBE FRIESEN
OCT 30, 2018 • 9:00 AM

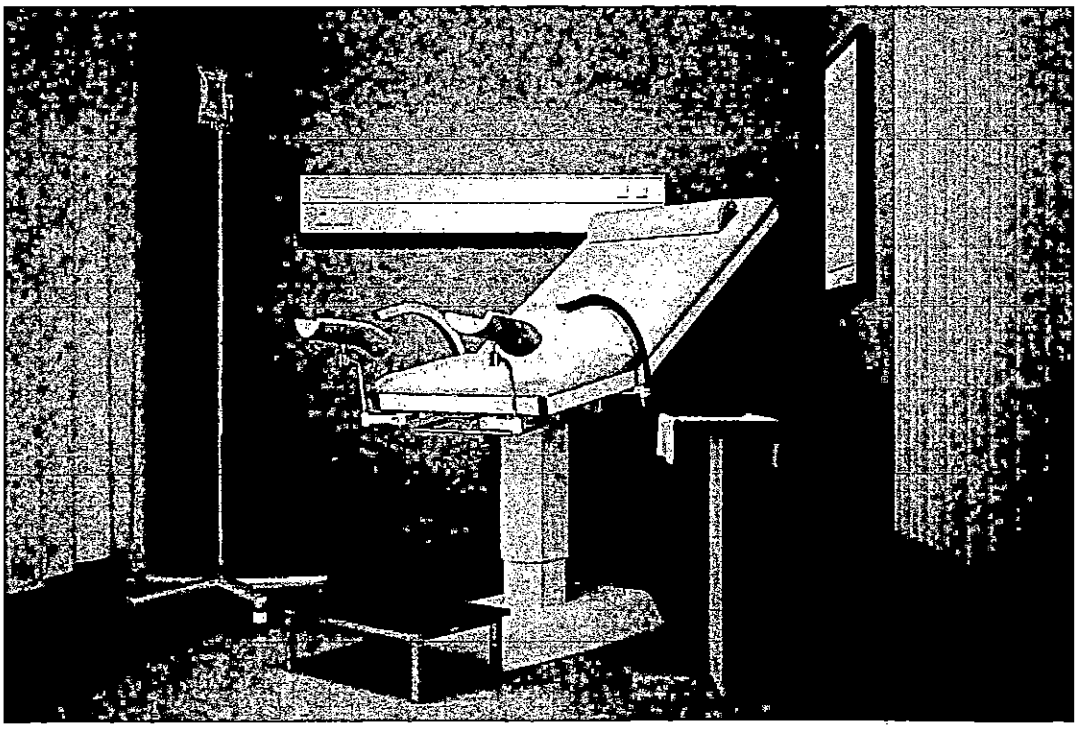


Photo illustration by Slate. 3D render by kellili/iStock/Getty Images Plus.

Recently in **Medical Examiner**

1 **We Should Use This Proven Public Health Strategy to Encourage Vaccination**

2 **Did We Cure HIV? Depends on What You Mean by "Cure."**

3 **Medicine Has a Status Anxiety Problem**

4 **Domestic Violence Doesn't Always Look Like We Think**

If you happen to have had a gynecological surgery at a major teaching hospital in the U.S., there's a good chance that after you were given the anesthetic, several medical students used your unresponsive body to learn how to perform a proper pelvic exam. Each student would have inserted two fingers inside your vagina and placed one hand on your abdomen, feeling for abnormalities in your uterus and ovaries. This would have been done entirely for their benefit, not yours. And after the surgery, you would have been sent on your way, with no mention of these exams and with no knowledge of your role as a teaching tool.

You, like many women, might feel that this constitutes a serious violation of both your body and your trust. This may sound like something that should have been left behind long ago in the days where medical paternalism was the norm. But this practice still appears to be commonplace in many teaching hospitals in this country. While little data has been collected in terms of frequency, medical students across the country are familiar with the practice and engage in heated debates regarding the ethics of the practice in online forums.

I first heard about the practice while teaching ethics at several medical schools in New York. When I asked my students to consider an ethical issue they'd encountered during their training, many of them brought up their experiences practicing pelvic exams on unconscious women who had not consented.

While discussing the importance of respecting an individual's rights and bodily autonomy, many students agreed that obtaining women's consent before this occurred would be preferable to sneaking in a lesson once they've been knocked out. Most of them admitted, however, that they would never feel comfortable raising their concerns with their instructors, given the rigid hierarchy that structures medical education as well as the intimate connection between those instructors and their chances at being placed for their residencies the next year. No one wanted to be seen as a troublemaker.

Interestingly, research shows that while first-year medical students largely find the idea of practicing pelvic exams on women under anesthetic to be morally problematic, the longer they spend in medical school, the

less they see it as an issue. Some have labeled this process, which shows up in many aspects of medical education, "ethical erosion."

Unsurprisingly, 100 percent of women say they would prefer to be asked before their pelvis is used as a teaching tool. Some say they would feel assaulted if they weren't consulted beforehand. Most also don't have the ability to learn that this has even happened to them. They have no chance to say no, thank you—or #MeToo. But in our current era of rethinking consent and the institutions that have perpetrated unfair treatment of women, now is the perfect time to finally end this practice.

I've spoken to many people who argue that we can't get consent from every woman before medical students learn how to give a pelvic exam on them, because so few of them would agree to take part that medical students would never learn the technique. Just as the many patients at teaching hospitals share the burden of allowing students to learn the ropes of medicine while caring for them, women having gynecological surgeries at teaching hospitals just need to (unwittingly) do their part for the greater good.

It's not clear that consent is such a barrier to student learning, however. When polled, the majority of women say they would consent to having medical students perform pelvic examinations on them while they are under anesthetic. Moreover, when consent for pelvic exams under anesthetic has been made routine, most women agree to take part.

There are also other ways to learn how to perform a pelvic examination. Following public outcry, performing pelvic exams on women without their consent has been banned in California, Virginia, Hawaii, Illinois, and Oregon, and several professional bodies in medicine have condemned it. Teaching hospitals in these places often hire professional patients to guide students through the process of giving a pelvic exam, or they use electronic teaching mannequins. Others have just incorporated specific consent for pelvic exams into medical education. It's time for the rest of the country to catch up.

Others argue that these exams are no big deal. At teaching hospitals, medical students participate in patient care in all sorts of ways—from chest drainage to suturing—and this is just one more aspect of teaching that takes place. It's far too burdensome to mention any possible involvement that medical students might have during a surgery within the consent form.

But there's a difference between these practices and unauthorized pelvic exams on unconscious women, and it's that, unlike other forms of treatment, these pelvic exams are done with no medical benefit to the patient. The purpose is purely for students to learn how to perform the exam.

A pelvic examination also has a different moral significance than suturing a wound. Women are frequently nervous before pelvic exams, reporting feeling vulnerable, embarrassed, and subordinate. Those who have experienced sexual assault often find the experience particularly distressing. This discomfort is a sign that pelvic exams are sensitive experiences and should be treated as such.

It's time to make informed consent for educational pelvic exams on anesthetized women routine. Several legislative documents are available for inspiration, and New Zealand has developed a clear policy requiring written consent before such exams. Rather than just teaching our future doctors how to perform a pelvic exam, let's also teach them how to respect women's bodies.

57,871 views | May 14, 2018, 09:20am

Pelvic Exams On Anesthetized Women Without Consent: A Troubling And Outdated Practice

Paul Hsieh Contributor ⓘ
I cover health care and economics from a free-market perspective.

Are doctors-in-training and medical students still performing pelvic exams on anesthetized women without their consent?

I was surprised to learn this was still going on today. I would have expected it in teaching hospitals during the 1950s — but not in 2018.

But in a recent excellent article by Phoebe Friesen in the journal *Bioethics*, she notes that "that the practice is alive and well" in many US and UK medical schools. It's difficult to know exactly how often this is happening. Most medical school faculty and students don't talk about it publicly, and affected patients are (by definition) unaware this is happening.

However, Friesen notes that a survey "at the University of Oklahoma in 2005 found that a large majority of medical students had given pelvic exams to gynecologic surgery patients who were under anesthesia, and that in nearly three quarters of these cases the women had not consented to the exam." Similarly, a UK survey "reported that at least 24% of intimate examinations they performed on anesthetized patients occurred without any consent and that 'on many occasions, more than one student examined the same patient'."

Of course, there are medically appropriate reasons to perform a pelvic exam on an unconscious woman as part of a legitimate treatment plan, for instance to plan placement of a surgical instrument before removing a gynecological tumor. And

this type of exam is covered by the standard informed consent process prior to surgery.

But the more troubling cases involves situations where a patient is unconscious, then the senior attending surgeon at the teaching hospital invites medical students and trainees to perform a pelvic exam *not* for therapeutic purposes, but for "practice" purposes — without obtaining the patient's consent beforehand. As bioethicist Arthur Caplan describes, "Sometimes, more than one student will practice the exam, with many sets of gloved fingers in the patient's vagina without their knowledge."

When I mentioned this to some of my non-medical friends (both male and female), their dominant reactions were horror and anger. One friend pointedly asked, "How is that not rape?"

Friesen also discusses some attempted justifications for this practice. One common argument is that, "it's good for society" — the practice will make the trainee a better doctor, which will benefit future patients (even if it doesn't benefit the current patient being examined).

Another common argument is that "it's no big deal" — it's a relatively minor act that causes no harm.

A third attempted justification is that patients coming to a teaching hospital implicitly allow their bodies to be used for education purposes, and that no further explicit consent for such a pelvic exam is necessary.

Friesen quoted two representative examples of opinions for and against this practice from an online discussion forum, StudentDoctor.net.

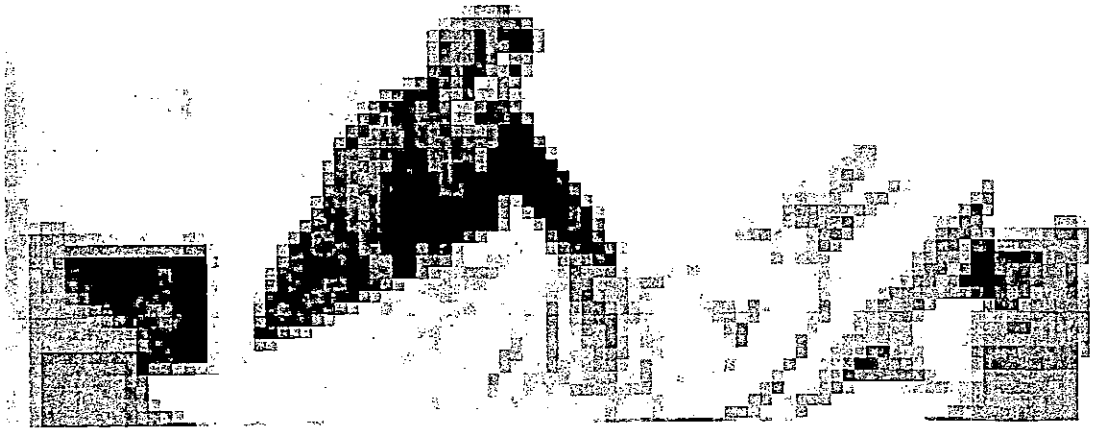
Supporting this practice, ArmoryBlaine wrote:

> It's suprising [sic] how worked up some people get over the issue. You will be naked on a brightly lit table for all to see. A medical student will put a tube into your bladder. We're about to flay your belly open and remove your uterus and ovaries. But to do a pelvic exam! What a violation!
>
> If you get into this habit of being deathly afraid of the patient's feelings about an internal exam you will never learn how. I'm not saying that you should be a jerk about it, but you owe it to your future patients to get some idea of what stuff feels like.

Opposing this practice, PregnantAt51 wrote:

> I am cringing a little at this thread. As a female student not yet in the medical field, I am disturbed to hear that by consenting to surgery, I risk having someone literally in my vagina without consent for purposes that benefit only the providers, and not me. Are patients really viewed as a teaching tool rather than a human being? That I will be splayed and sliced during the procedure doesn't mean that additional indignities are acceptable.
>
> It's still my vagina, even if I am naked and unconscious. I didn't lend it to anyone to practice techniques.

Surveys of patients support the second viewpoint expressed. Friesen notes that "the vast majority (72–100%) of women say they expect to be specifically consented for an educational pelvic exam performed while they are under anesthesia" and that many women "said they would feel 'physically assaulted' if not consented."



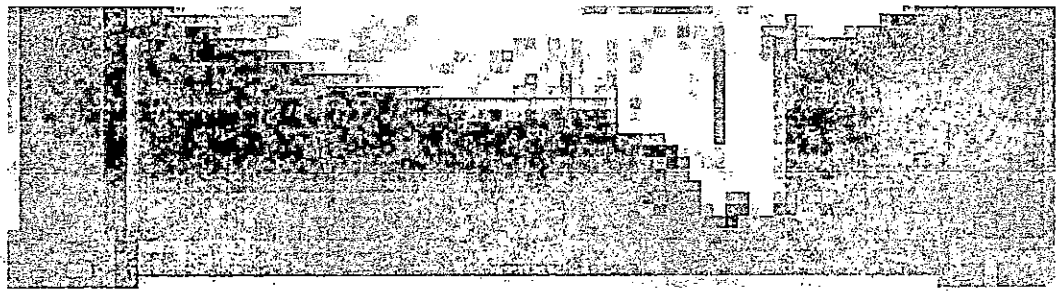


Illustration of a doctor performing a pelvic exam, from an 1825 medical textbook. BY WELLCOME COLLECTION GALLERY (2018-04-06): HTTPS://WELLCOMECOLLECTION.ORG/WORKS/PG7BG7BY LICENSED UNDER THE CREATIVE COMMONS ATTRIBUTION 4.0 INTERNATIONAL LICENSE, WIKIMEDIA COMMONS.

So why don't teaching hospitals make it a standard practice to obtain explicit informed consent ahead of time? My suspicion is that many faculty members view it as an unnecessary hassle — *and* that if they asked for consent, then too many women would say "no."

However, this turns the principle of consent on its head. If there is a physically invasive procedure (e.g., a pelvic exam while unconscious) that hospitals and doctors know a significant fraction of patients would *not* agree to if given a choice, then it's all the *more* important to ask them first. Deliberately choosing not to ask due to fear of a "no" answer and instead performing the procedure anyways violates the very concepts of consent, patient autonomy, and individual rights.

(Men should also realize that this issue is not limited to female patients. Unconscious male patients can sometimes be subjected to rectal and prostate exams by medical students without their consent.)

Fortunately, not all teaching hospitals engage in this practice. Some university hospitals use willing volunteers to teach medical students how to perform pelvic exams, under the close supervision of faculty members. This was how I learned when I was a medical student at the University of Michigan.

So what can patients in a teaching hospital do to protect themselves? I have three suggestions:

1) Before undergoing anesthesia for any kind of surgery, specifically state that you don't agree to a pelvic exam while unconscious. State this preference to more than

one person (for instance to both the doctors and the nursing staff). Make sure your preference is recorded in writing in your informed consent form.

2) Contact the hospital ombudsman before the surgery. Ask them if they are aware of this practice occurring in this hospital, and specifically record your preference with their office before your surgery. The ombudsman's job is to be the patient advocate relating to any concerns or complaints about their care. Take advantage of them as a resource.

3) Urge your state legislators to support legislation outlawing this practice. The practice of performing pelvic exams on unconscious patients without consent is currently illegal in four states (Hawaii, California, Illinois, and Virginia). I would imagine that many lawmakers in the other 46 states would gladly sponsor a bill protecting patients' rights in this manner.

One of the bedrock principles of Western medicine is a respect for a patient's bodily autonomy. Respecting patients' autonomy becomes all the more important when they are unconscious and vulnerable. I hope this article sheds some light on a practice that needs to change and helps patients better protect themselves.

Paul Hsieh Contributor

I am a physician with long-standing interests in health policy, medical ethics and free-market economics. I am the co-founder of Freedom and Individual Rights in Medicin...

Read More

March 12, 2019
Testimony: Opposition to SB117

My name is Dr. Oge Young. I have practiced Ob/Gyn in Concord for 35 years. I am a past president of the NHMS and presently represent NH Obstetricians on our general council. I am a clinical professor of Ob/Gyn at Dartmouth Medical School having taught medical students throughout my career.

We have 2-3 third year students in Concord for their basic clerkship in Ob/Gyn every six weeks. It is their first real clinical experience in obstetrics. They shadow us on Labor & Delivery, in the operating room and on occasion in the emergency department at Concord Hospital. Also, they spend days with us in our office when we are seeing women in an outpatient setting.

I was trained to perform an examination under anesthesia before every operation. Frequently, the exam determines the kind of surgery I perform- abdominal, vaginal or laparoscopic, and the type of incision I will make.

With the woman's permission and my supervision, my medical students perform pelvic exams in this setting. An examination under anesthesia in the operating room is a "golden moment" for teaching. The student is able to perform an exam while the patient s relaxed and comfortable. Immediately after their exam, the student sees through an incision or a laparoscope what they just felt.

I am a strong advocate of all trainees obtaining the permission of the patient to perform a pelvic exam under anesthesia, but I am opposed to SB117 for three reasons:

1) Making this a state law violates the privacy of the physician and patient. Legislation should never enter in to that relationship.
2) The State should not legislate medical education. There should be no state mandate regarding the teaching of exams- pelvic exams, rectal exams, breast or abdominal exams- which are all performed more accurately under anesthesia.
3) This legislation is unnecessary. For 35 years as a clinical instructor of Ob/Gyn, none of my students ever performed any kind of exam on my patients without consent of the woman.

Recently there has been concern about the privacy of patients, particularly pertaining to pelvic exams performed on the unconscious woman or patients under anesthesia. Medical schools have responded with formal policies to this concern. I have a copy of the formal policy at Dartmouth, written by the chairman of our Ob/Gyn Department, Elizabeth Erekson MD:

"As part of the consent for surgery, we reviewed that there are health care personnel who are trainees at DHMC, which include medical students, resident physicians and fellows. As part of the start of any surgery, a pelvic exam is usually performed by the attending physician, which then may be repeated by the trainee with supervision. The patient gives/or does not give permission for the trainee to perform an exam under anesthesia." *Our medical student clerkship directors address this issue and concerns with all 3rd year medical students starting their Ob/Gyn clerkships.

Clearly, patients should be informed and asked permission for any trainee to perform a pelvic exam- or any kind of exam under anesthesia and in all other settings. But, I urge you to oppose SB117 because passing this bill would violate patient-physician privacy, legislate medical education and is unnecessary. It has been appropriately addressed by our medical institutions and our teaching staff.

Oge Young MD

Dear OB/GYN Colleagues–

Two weeks ago, a recent social media campaign called #JustAsk was brought to my attention. This campaign discusses the practice of medical students performing a pelvic exam under anesthesia as a routine part of gynecologic surgery. This social media campaign has grown and now made it to the regular media, including among others, a recently published article in the Chicago Tribune.

This is not the first time this practice has come under scrutiny in OB/GYN. I am attaching a 2012editorial from the green journal, written by a 4th year medical student who went into OB/GYN.

Last Tuesday, a taskforce met to discuss our current practices and how we can better communicate with our patients and our trainees. The taskforce includes myself, the OB/GYN medical student clerkship directors, Drs. Paul Hanissian and Rebecca Pschirrer, Geisel's Associate Dean for Clinical Education, Dr. John Dick III, and the director of Perioperative Clinical Services, Laurie Heels.

We want to reaffirm that:

- No medical students or residents participate in surgeries without first meeting the patient.
- Pelvic examinations under anesthesia, and examinations under anesthesia of many kinds, may be performed by different services, including urology, colorectal surgery, gastroenterology, breast surgery, etc., and are not unique to OB/GYN. This highlights that some of the longer solutions to this issue will need to be a joint effort across the Dartmouth-Hitchcock Health system.
- Our D-H mission statement endorses our commitment to education of our trainees while providing exceptional care to every patient.
  "We advance health through research, education, clinical practice, and community partnerships, providing each person the best care, in the right place, at the right time, every time."

Our taskforce developed the following action items.
In the short-term:

- We would like to ensure that faculty in our department continue to inform patients about the involvement of trainees in their surgery. We recommend that "Exam Under Anesthesia" be added to the consent form as the first step in any gynecologic surgery to adequately set the conversation with the patient about her procedure, recognizing how vital this exam is for a successful surgery.
- We have created a universal .dot phrase in eD-H for faculty/providers to use about informing patients about pelvic exams under anesthesia.
  .euaconsent
  "As part of the consent for surgery, we reviewed that there are health care personnel who are trainees at DHMC, which include medical students, resident physicians and fellows. As a part of the start of any surgery, a pelvic exam is usually performed by the attending physician, which then may be repeated by the trainee with supervision. The patient gives (***) does / does not give her permission for a trainee to perform an exam under anesthesia."
- Our medical student clerkship directors will address issues and concerns with all 3rd year medical students starting their OB/GYN clerkship at orientation.

In the long-term:

- We will work with the director of Perioperative Services and the DHMC Perioperative Executive Committee to consider a revision to the D-H Procedural Consent Form (bullet #5). We realize this is a long-term solution as changes to the consent form require multiple layers of approval and are currently being consider on a system level.

Thank you for your attention to this matter and please feel free to discuss any concerns you may have regarding this issue with myself and your medical student clerkship directors.

Liz

Elisabeth Erekson, MD MPH FACOG FACS
Interim Chair, Department of Obstetrics and Gynecology
Interim VP, Obstetrics and Gynecology Service Line at Dartmouth-Hitchcock
Associate Professor of Obstetrics & Gynecology
Associate Professor of Health Policy and Clinical Practice
Administration: phone 603.653.9250 | fax 603.650.0906
Patient care: phone 603.629.8388 | fax 603.629.8377
Elisabeth.D.Erekson@hitchcock.org

New Hampshire Hospital Association

SENATE HEALTH, HUMAN SERVICES COMMITTEE

March 12, 2019

SB 117 – Relative to Certain Procedures Performed in Teaching Hospitals

Testimony

Good afternoon, Chairman and members of the committee. My name is Paula Minnehan, Senior VP, State Government Relations with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals.

The NHHA is opposed to SB 117 for several reasons. It is unclear to us why the bill was even introduced. The exact same bill was introduced in the House. I did speak with the sponsor of HB 422. In talking with him, it was evident that there are no incidents in NH that prompted him to introduce that bill. The bill was heard earlier this session and was voted Inexpedient to Legislate by the committee in mid-February and by the full House late last month.

As with HB 422, this bill, SB 117, poses many questions for us, including:

- If the bill were to pass, how would compliance be measured?
- Are there any instances where consent has not obtained? It is current standard medical practice for physicians and surgeons to obtain consent from patients prior to care being rendered, regardless of the health care setting. So, we are unclear what issue the bill is trying to address.
- Why does the bill title reference only teaching hospitals? The bill title references "teaching hospitals" but the bill language is not focused on only teaching hospitals. We believe the way it is currently written that it could impact all physicians and surgeons.

If this bill were to pass, it would result in essentially our legislature governing medical care. This committee has historically rejected many past proposals that would have interfered with the physician/patient relationship, and we applaud that history.

Thank you for the opportunity to provide our comments. For the reasons I have outlined above, we request that you find this bill Inexpedient to Legislate. I am happy to answer any questions.

Voting Sheets

Senate Health and Human Services Committee
EXECUTIVE SESSION RECORD
2018-2019 Session

Bill # SB 117

Hearing date: March 19, 2019

Executive Session date: _____

Motion of: Re-Refer **Vote:** 3-2

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair	X	X		X	
Sen. Fuller Clark, Vice Chair	X		X	X	
Sen. Chandley	X			X	
Sen. Bradley	X				X
Sen. Gray	X				X

Motion of: _____ **Vote:** _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair					
Sen. Fuller Clark, Vice Chair					
Sen. Chandley					
Sen. Bradley					
Sen. Gray					

Motion of: _____ **Vote:** _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Sherman, Chair					
Sen. Fuller Clark, Vice Chair					
Sen. Chandley					
Sen. Bradley					
Sen. Gray					

Reported out by: Fuller Clark

Notes:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Tuesday, March 19, 2019

THE COMMITTEE ON Health and Human Services

to which was referred **SB 117**

AN ACT relative to certain procedures conducted in teaching hospitals.

Having considered the same, the committee recommends that the Bill

BE RE-REFERRED TO COMMITTEE

BY A VOTE OF: 3-2

Senator Martha Fuller Clark
For the Committee

Doug Marino 271-8631

HEALTH AND HUMAN SERVICES

SB 117, relative to certain procedures conducted in teaching hospitals.
Re-refer to Committee, Vote 3-2.
Senator Martha Fuller Clark for the committee.

General Court of New Hampshire - Bill Status System

Docket of SB117

Docket Abbreviations

Bill Title: relative to certain procedures conducted in teaching hospitals.

Official Docket of **SB117.**:

Date	Body	Description
1/18/2019	S	**Introduced** 01/03/2019 and Referred to Health and Human Services; **SJ 4**
3/8/2019	S	**Hearing:** 03/12/2019, Room 101, LOB, 03:00 pm; **SC 13**
3/19/2019	S	Committee Report: Rereferred to Committee, 03/28/2019; **SC 15**
3/28/2019	S	Sen. Hennessey Moved Laid on Table, **RC** 15Y-8N, MA; 03/28/2019; **SJ 11**
3/28/2019	S	Pending Motion Rerefer to Committee; 03/28/2019; **SJ 11**
12/18/2019	S	To Be Inexpedient to Legislate, Senate Rule 3-23, Adjournment 09/25/2019;

NH House	NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: 3611M **Senate Committee:** H HS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

X Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

X Bill version as it came to the committee

X All Calendar Notices

X Hearing Sign-up sheet(s)

X Prepared testimony, presentations, & other submissions handed in at the public hearing

X Hearing Report

___ Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

X - amendment # 02635 ___ - amendment #_____

___ - amendment #_____ ___ - amendment #_____

X Executive Session Sheet

X Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment #_____ ___ - amendment #_____

___ - amendment #_____ ___ - amendment #_____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

_____ _____

Committee Aide **Date**

Senate Clerk's Office AK