

# More states are requiring patients to give consent for medical students performing pelvic exams

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Alexandra Fountaine, a medical student at Ohio University, poses for a picture in front of the Ohio Statehouse in Columbus, Ohio, Thursday, May 11, 2023. Fountaine testified before a committee earlier this month advocating for a bill that would ban pelvic exams on unconscious patients without their express consent. Credit: AP Photo/Samantha Hendrickson

A new batch of states are looking to legislate the level of informed consent when it comes to medical students performing pelvic exams for educational purposes on unconscious patients.

At least 20 states already have [consent](#) laws for this practice. Montana's governor [signed a bill in April](#), Missouri has legislation that needs the governor's signature to become law and Ohio lawmakers [are also considering it](#).

Colorado lawmakers want to go a step further, with Democratic Gov. Jared Polis expected to sign [a bill](#) that one bioethicist calls the broadest she's seen—and says may go too far—due to a requirement of naming the involved students ahead of time and introducing them to the patients.

Proponents "see the Colorado bill as a model we hope other states will pass," said Elizabeth Newman, public policy director at the Colorado Coalition Against Sexual Assault, which testified in favor of the legislation.

It's hard to track and quantify how often medical students are asked to do intimate exams—like pelvic, rectal or prostate exams—on patients who are anesthetized. Opponents of the various bills and laws, who are often doctors, argue it's government overreach which could compromise the established trust between patient and provider and should instead be left to recommendations from medical associations.

Typically, a patient signs a number of forms giving broad consent for a range of procedures that might be medically necessary while someone is anesthetized. That can also include consent for educational purposes.

"Most folks just sign them and assume they are going to get the care that they need," said Colorado Democratic Rep. Jenny Willford, who co-sponsored the bill.

But patients often don't know they were examined while unconscious, and if they do, they may fear coming forward, according to Newman. Plus, she said, medical students who could report it are often afraid to raise concerns with superiors who have power over their careers.

Colorado's bill would require an [informed consent process](#), as well as ensure that the pelvic, breast, rectal or prostate [exam](#) is within the scope of the treatment. While this would be required even without students, practitioners are excepted from the consent process in emergency situations.

The bill goes beyond others across the U.S. to include whistleblower protections for medical students who want to speak out, as well as liability for doctors and hospitals if they don't follow the consent rules. It's also unique in the requirement that the involved students would be named on the consent form, and be introduced to the patient prior to the procedure.

Kayte Spector-Bagdady, a clinical ethicist, said Colorado's proposal is the broadest she's seen and worries that listing the names of involved students could limit learning opportunities. Getting consent is typically done days or weeks ahead of time, but students may be unavailable on the day of the procedure—and Colorado's proposed law wouldn't allow others to step in and learn, she said.

"We want people to generally know how to take care of women, and (these exams are) a critical component of that," said Spector-Bagdady, who co-authored a 2019 recommendation by the Association of Professors of Gynecology and Obstetrics for such exams. "It's a balance of respecting the autonomy of our patients and ensuring that the next time they go see a doctor, that doctor knows how to care for them properly."

That association's [2019 recommendation](#), endorsed by major obstetric and gynecological professional associations, says students should only perform pelvic exams that are "explicitly consented to" and "related to the planned procedure."

Newman, however, said the mandates are important not only for patients to give complete informed consent, but for [medical students](#) to know that the client has given their consent and to learn the rules governing the consent process.

Alexandra Fontaine, a medical [student](#) at Ohio University, was asked to do a pelvic exam on an unconscious female patient by the doctor overseeing Fontaine's training on her first day of rotation at an OhioHealth hospital in Columbus.

She said she didn't know whether the woman, who was anesthetized for an abdominal surgery that Fontaine said didn't require a pelvic exam, had given consent for it.

Fontaine also did not ask the physician whether the woman had consented, telling The Associated Press that students are taught "to be seen and not heard." Fontaine said the physician assured her that doing a pelvic exam was fine and "for her education."

"I initially froze," said Fontaine, who didn't end up doing the exam but told the physician she did when her back was turned. The experience led Fontaine to testify in front of an Ohio House committee; her school says it supports students "on their professional journey."

OhioHealth, which has several teaching hospitals, told the AP in a statement that its policies "regarding patient consent are consistent with current law" and that attending physicians oversee patient exams, which are "a component of the medical education process."

There can be an intense disconnect between patient understanding and provider understanding on consent and procedures, said Phoebe Friesen, a bioethicist at McGill University in Montreal whose research helped bring the practice back into focus following the #MeToo movement.

Providers view these unconscious exams as strictly medical or educational; the vagina and other intimate areas are "just another body part," so specific informed consent isn't necessary.

But for patients, Friesen believes it's absolutely necessary. Such exams can leave a patient feeling robbed of their bodily autonomy, or even retraumatize people who have survived sexual assault.

"The solution is so simple," Friesen said. "Just ask people whether they're comfortable with this particular practice."

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