

Patients have a right to an observer to prevent sexual misconduct in doctors' offices, new NJ rules say

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New Jersey is proposing new rules to better protect patients from sexual misconduct in doctors' offices.

The rules would require doctors to confirm that patients have read and understood their right to have another licensed medical professional present as an observer before proceeding with a sensitive examination, including breast, pelvic, genitalia, and rectal exams. Doctors would also be required to take continuing education on topics related to sexual misconduct prevention.

"New Jersey is committed to rooting out and preventing sexual misconduct and abuse in professional settings, including doctors' offices, where such breaches cause lasting harm to patients and tarnish the integrity of the medical profession," Attorney General Matthew Platkin said in a statement last week.

Platkin's proposed changes are part of New Jersey's ongoing effort to reduce the risk of physician [sexual misconduct](#) in the wake of high-profile cases. Earlier this month, the State Board of Medical Examiners revoked the license of a North Jersey cardiologist who was accused of fondling and groping six [female patients](#) between 2008 and 2014. The cardiologist hasn't practiced medicine in New Jersey since 2015, when authorities brought criminal charges.

"Trust is the cornerstone of the doctor-patient relationship, and patients suffer immeasurable harm when doctors abuse that trust for their own sexual gratification," said Cari Fais, acting director of the state Division of Consumer Affairs.

Pennsylvania doesn't mandate a patient's right to an observer, according to a spokesperson for the Pennsylvania Department of State, which licenses doctors.

New Jersey patients have long had the right to have a chaperone in an exam room. Doctors are currently required to make patients aware of that right in writing or with a sign posted prominently in their office.

The revamped rules would change the name from "chaperone" to "observer." Doctors would have to offer notice both in by writing and with posted signage. Those notifications must be available in English, Spanish, and other languages common in New Jersey. Any reference to males or females would be removed from notices to clarify that all patients, regardless of [gender identity](#) or expression, have the right to an observer.

One significant change would require the observer to be a health-care professional, such as another doctor or a nurse licensed to practice in the state, or certified as a medical assistant.

"It's a good step because there are power dynamics in the office," said Robert Baran, co-director of the New Jersey Coalition Against Sexual Assault, a nonprofit that advocates on behalf of survivors. "Perhaps somebody in a role that's not also a medical role might feel less comfortable challenging a doctor in an exam room."

The new rules would also clarify protections for doctors.

The proposed amendments would make clear that a doctor can decline to perform an exam or refuse to provide treatment "for which the examination is necessary" if an observer isn't available or if the physician wishes to have an observer and the patient declines to have one present.

Members of the Medical Society of New Jersey, which represents about 9,000 [doctors](#) statewide, generally favor having an observer present, said Josh Bengal, a lawyer and lobbyist for the advocacy group.

"It's helpful to them. It's protective, and it makes the patient feels more comfortable," Bengal said.

The amendments, which would be enforced by the New Jersey Board of Medical Examiners, are open to public comment until June 14.

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