

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 871

Short Title: Informed Consent/Certain Procedures. (Public)

Sponsors: Representatives Adcock, K. Baker, and von Haefen (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Rules, Calendar, and Operations of the House

May 5, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE PARAMETERS FOR OBTAINING INFORMED CONSENT FOR
3 PELVIC OR RECTAL EXAMINATIONS ON ANESTHETIZED OR UNCONSCIOUS
4 PATIENTS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Article 1B of Chapter 90 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 90-21.19A. Informed consent for certain examinations on anesthetized or unconscious**
9 **patients.**

10 (a) For the purposes of this section, the following definitions shall apply:

11 (1) Anesthetized patient. – A patient who is under general anesthesia and is
12 unconscious or unresponsive.

13 (2) Health care provider. – As defined in G.S. 90-21.11.

14 (3) Licensee. – Any individual issued a license by the North Carolina Medical
15 Board, whether the license is active or inactive, including an inactive license
16 by means of surrender.

17 (4) Pelvic exam. – A physical examination of the pelvic organs or external
18 genitals, including vulva, vagina, cervix, or uterus. A pelvic exam does not
19 include the placement of a urinary catheter.

20 (5) Rectal exam. – A visual inspection of the perianal skin, including the digital
21 palpation of the rectum for the purpose of a prostate examination.

22 (6) Trainee. – Any person who is receiving health care professional training in a
23 hospital or health care facility, either paid or unpaid, as a student or licensed
24 professional, and whose training includes the personal care or medical
25 treatment of patients.

26 (7) Unconscious patient. – A patient who is without awareness and unresponsive.

27 (b) A health care provider or trainee shall not perform or supervise the performance of a
28 pelvic or rectal examination on an anesthetized or unconscious patient, unless one of the
29 following conditions is met:

30 (1) The patient, the patient's legal guardian, or the patient's designated health care
31 agent pursuant to a health care power of attorney, as defined in G.S. 32A-16,
32 provides prior informed consent to a pelvic or rectal examination.

33 (2) The patient is incapable of providing informed consent and the pelvic or rectal
34 examination is necessary for diagnostic or treatment purposes.



1 (3) An emergency exists at the time of the examination and it is impractical to
2 obtain the patient's consent, and the pelvic or rectal examination is necessary
3 for diagnostic or treatment purposes.

4 (c) To obtain consent to perform a pelvic or rectal examination on an anesthetized or
5 unconscious patient, prior to beginning the performance of the patient examination, a health care
6 provider shall do all of the following:

7 (1) Obtain informed consent from the patient, the patient's legal guardian, or the
8 patient's designated health care agent verbally.

9 (2) Provide the patient, the patient's legal guardian, or the patient's designated
10 health care agent a written or electronic document that meets all of the
11 following requirements:

12 a. The document is on a separate page within a document pertaining to
13 consent, as provided in G.S. 90-21.13(b), or is provided separately
14 from any other consent document.

15 b. Specifies the nature and purpose of the pelvic or rectal examination.

16 c. Names one or more health care providers whom the patient or the
17 patient's representative may authorize to perform the pelvic or rectal
18 examination.

19 d. States whether the patient or patient's representative agrees that a
20 trainee may perform an additional pelvic or rectal examination, or
21 observe or otherwise be present at the examination, in-person or
22 through electronic means.

23 e. Provides the patient or the patient's representative with a series of
24 prompts and questions, evidenced by checkboxes, that allow the
25 patient or the patient's representative to consent to any of the
26 following:

27 1. A pelvic or rectal examination for purposes of diagnosis or
28 treatment or for evidence collection where there is reason to
29 believe that a crime may have been committed.

30 2. A pelvic or rectal examination for only educational or training
31 purposes.

32 3. An additional pelvic or rectal examination performed by a
33 trainee for only educational or training purposes.

34 4. Decline to consent to a pelvic or rectal examination.

35 f. Contains the following heading at the top of the document in 16-point
36 boldface type:

37 "CONSENT FOR EXAMINATION OF
38 PELVIC OR RECTAL REGION".

39 (3) Obtain the signature of the patient or the patient's representative on the written
40 or electronic document.

41 (4) Sign the written or electronic document, verifying the valid completion of the
42 document.

43 (d) A written consent form must be obtained and completed by the patient or the patient's
44 representative for any pelvic or rectal examination prior to each and any time a patient is
45 anesthetized or unconscious.

46 (e) A patient is free to withhold or withdraw their consent to the examination at any time
47 before the examination begins without affecting their right to future care or treatment and without
48 the loss of any State or federal benefits to which the patient would otherwise be entitled to
49 receive.

50 (f) An individual who violates the provisions of this section shall be guilty of a Class A1
51 misdemeanor."

1 **SECTION 1.(b)** G.S. 90-5.4 reads as rewritten:

2 "**§ 90-5.4. Duty to report.**

3 (a) Every licensee has a duty to report in writing to the Board within 30 days any incidents
4 that licensee reasonably believes to have occurred involving any of the following:

5 ...

6 (3) Any violation of G.S. 90-21.19A.

7 "

8 **SECTION 2.** This act becomes effective October 1, 2021, and applies to
9 examinations on or after that date.