

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS45098-NB-28C

Short Title: Informed Consent Certain Procedures.

(Public)

Sponsors: Senators Krawiec, Galey, and Adcock (Primary Sponsors).

Referred to:

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 "**§ 90-21.13A. 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) Pelvic exam. – A physical examination of the pelvic organs or external
15 genitals, including vulva, vagina, cervix, or uterus. A pelvic exam does not
16 include the placement of a urinary catheter.
17 (4) Rectal exam. – A visual inspection of the perianal skin, including the digital
18 palpation of the rectum for the purpose of a prostate examination.
19 (5) Trainee. – Any person who is receiving health care professional training in a
20 hospital or health care facility, either paid or unpaid, as a student or licensed
21 professional, and whose training includes the personal care or medical
22 treatment of patients.
23 (6) Unconscious patient. – A patient who is without awareness and unresponsive.

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

- 27 (1) The patient, the patient's legal guardian, or the patient's designated health care
28 agent pursuant to a health care power of attorney, as defined in G.S. 32A-16,
29 provides prior informed consent to a pelvic or rectal examination.
30 (2) The patient is incapable of providing informed consent and the pelvic or rectal
31 examination is necessary for diagnostic or treatment purposes.
32 (3) An emergency exists at the time of the examination and it is impractical to
33 obtain the patient's consent, and the pelvic or rectal examination is necessary
34 for diagnostic or treatment purposes.



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

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

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

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

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

13 c. Names one or more health care providers whom the patient or the
14 patient's representative may authorize to perform the pelvic or rectal
15 examination.

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

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

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

27 2. A pelvic or rectal examination for only educational or training
28 purposes.

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

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

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

34 "CONSENT FOR EXAMINATION OF
35 PELVIC OR RECTAL REGION".

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

38 (4) Sign the written or electronic document, verifying the valid completion of the
39 document.

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

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

46 (f) Subjecting a patient to a pelvic, rectal, or prostate examination (i) without prior
47 specific informed consent in accordance with this section, (ii) solely for educational or training
48 purposes, or (iii) in the event informed consent has been withdrawn shall not constitute an
49 accepted medical purpose for the purposes of G.S. 90-5.4, or an accepted standard for the
50 purposes of G.S. 90-21.13.

1 (g) An individual who violates the provisions of this section shall be guilty of a Class A1
2 misdemeanor."

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

4 "**§ 90-5.4. Duty to report.**

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

7 ...
8 (3) Any violation of G.S. 90-21.13A.

9"

10 **SECTION 1.(c)** G.S. 90-21.13(e) reads as rewritten:

11 "**§ 90-21.13. Informed consent to health care treatment or procedure.**

12 ...
13 (e) In the event of any conflict between the provisions of this section and those of
14 G.S. 35A-1245, 90-21.13A, 90-21.17, and 90-322, Articles 1A and 19 of Chapter 90, and Article
15 3 of Chapter 122C of the General Statutes, the provisions of those sections and Articles shall
16 control and continue in full force and effect."

17 **SECTION 2.** This act becomes effective October 1, 2023, and applies to
18 examinations on or after that date.