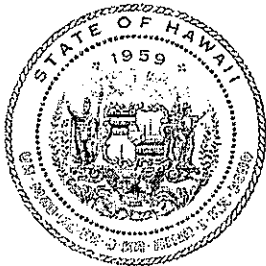


TESTIMONY

HB2232, HD2

**HTH
Committee Hearing
03-16-2012**

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
CAROL ANNE PHILIPS

Executive Director
Catherine Betts, Esq.

Email:
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Honolulu, HI 96813
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March 13, 2012

Testimony in Support of HB 2232, HD 2, Relating to Health

To: Senator Josh Green, M.D., Chair
Senator Clarence K. Nishihara, Vice Chair
Members of the Senate Committee on Health

From: Catherine Betts, Esq., Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 2232, HD 2

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank the committee for hearing this important bill. I would like to express my strong support of HB 2232, HD 2, which would require that female patients provide specific informed consent prior to a pelvic examination, specifically if the female patient is to be anesthetized or unconscious during the examination.

The medical community nationwide has recognized the need for specific informed consent prior to conducting a pelvic examination on an unconscious female patient. In fact, the American Association of Medical Colleges, which represents 125 accredited U.S. medical schools and over 400 teaching schools, has labeled the performance of pelvic examinations on women under anesthesia as "unethical and unacceptable."¹ California has even recognized unauthorized examinations as a misdemeanor and grounds for the loss of a physician's license.² Even under our own criminal statutes, specifically HRS § 707-731, sexual penetration of another person who is mentally incapacitated constitutes a sexual assault in the 2nd degree.³

I sincerely believe that more women would report these examinations as potentially criminal violations *had they known* that this clandestine and paternalistic practice was still occurring. Most women do not know that this practice occurs because they are never given any information nor are they given any opportunity to give consent. This is tantamount to medically endorsed sexual assault.

Justification for this continued practice ranges from paternalistic (i.e. patients give implied consent when they seek services at a teaching facility) to without basis (i.e. if consent is requested, the patient will not agree with the examination). Not surprisingly, many women are willing to give consent if asked, thereby indicating that the continued secrecy of this practice is completely unnecessary.

The Commission respectfully urges this Committee to pass HB 2232, HD 2.

Thank you for this opportunity to testify.

Catherine Betts, Esq.
Executive Director, Hawaii State Commission on the Status of Women

¹ American Association of Medical Colleges, AAMC Statement on Patient Rights and Medical Training (June 12, 2003).

² Cal. Bus. & Prof. Code, § 2281 (West 2004, Supp. 2005).

³ Haw. Rev. Stat. § 707-731.



March 13, 2012

TO: Senator Josh Green, M.D., Chair, Senator Clarence K. Nishihara, Vice Chair and
Members of the Committee on Health
FROM: Jackie Berry, Executive Director
RE: **HB 2232, HD2 Relating to Health**
Hearing: Friday, March 16, 2012 at 1:30pm

Honorable Chairperson Green, Vice Chairperson Nishihara, and Members of the Committee on Health

HMHB is a statewide coalition of public and private agencies and individuals committed to the improvement of maternal and infant health status in Hawaii through education, coordination and advocacy. **HMHB is testifying today in support of HB 2232, HD2 which prohibits a physician, osteopathic physician, surgeon, or medical students from performing a pelvic exam on an anesthetized or unconscious female patient unless specific informed consent was obtained, the pelvic examination is within the specified scope of care, or the pelvic exam is required for diagnostic purposes on an unconscious patient.**

Performing any procedure outside the parameters of the above is obviously inappropriate. California has recognized unauthorized examinations as a misdemeanor and grounds for loss of physician's license, thereby recognizing the moral and ethical necessity of informed consent. The American Association of Medical Colleges, which represents 125 Accredited U.S medical schools and over 400 teaching hospitals labeled performance of pelvic exams on women under anesthesia as unethical and unacceptable.

We urge you support of this bill.

Mahalo for your consideration of this bill and our testimony.

845 22nd Avenue, Honolulu, Hawaii 96816
Phone # (808) 737-5805

E-mail: jackieb@hmhb-hawaii.org website: www.hmhb-hawaii.org



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Presented Before the
Senate Committee on Health
Friday, March 16, 1:30 p.m.

By

Virginia Hinshaw, Chancellor

And

Jerris R. Hedges, MD

Dean, John A. Burns School of Medicine
University of Hawai'i at Mānoa

HB 2232 HD 2 RELATING TO HEALTH

Aloha Chair Green, Vice Chair Nishihara and members of the Senate Committee on Health.

The John A. Burns School of Medicine (JABSOM) supports the bill as written in HD2.

JABSOM's Department of Obstetrics and Gynecology (OB-GYN) and Women's Health has a policy regarding the pelvic exams under anesthesia which is consistent with this measure. Medical students introduce themselves to patients requesting permission to be involved in their care. If a pelvic exam under anesthesia is planned, they request permission to perform the examination. The policy and procedures in effect at this time do require informed consent for the performance of a pelvic exam by a medical student.

All compensated and non-compensated faculty have been oriented to the policy. All medical students receive training regarding the policy on the first day of their rotation on the clinical service. The policy is included with their orientation paperwork. Kapi'olani Medical Center for Women and Children and The Queen's Medical Center, where our physicians conduct training, have both received the policy and it has been reviewed by their administrative and executive medical groups to ensure hospital and medical school policies are concordant.

This year a randomly selected group of women were questioned post-operatively and asked if a medical student was involved in their care. If they answered affirmatively, they were questioned regarding this policy. In all cases the patient stated the medical student had approached the patient, and informed the patient they would be participating in the patients care including performing a pelvic exam, if such an exam was required for diagnostic purposes or clinical care.

The OB-GYN rotation may be the only time medical students are exposed to women's health, and it may be their only opportunity to perform pelvic exams. Many will go on to

other disciplines in medicine. Being able to perform a pelvic exam is necessary for a physician. Performing a pelvic exam while a patient is anesthetized is a superb learning experience, as the patient is fully relaxed and the intra-abdominal organs are easier to palpate. We know that many of our JABSOM graduates practice medicine in Hawai'i after they complete their training. It is important that we train the best physicians possible for our state and optimize their opportunities to perform pelvic exam, while respecting a patient's rights to informed consent prior to such an exam.

Thank you for this opportunity to testify.

UNIVERSITY OF HAWAII AT MĀNOA

The William S. Richardson School of Law

Hazel Glenn Beh

Professor of Law and Co-Director, Health Law Policy Center

March 13, 2012

The Senate
The Twenty-Sixth Legislature
Regular Session of 2012
Committee on Health

TESTIMONY IN STRONG SUPPORT OF HB 2232 HD2 WITH AMENDMENTS

Dear Senator Josh Green, M.D., Chair and Senator Clarence K. Nishihara, Vice Chair:

My name is Hazel Beh. I am a professor of law and co-director of the Health Policy Center at the William S. Richardson School of Law. I strongly support the intent of HB 2232 HD2. However, I urge that the language of SB No. 2578 SD1 be substituted in order to more accurately reflect the intent of this legislation. The House Draft is flawed because it is not limited to pelvic exams in the course of instruction or training. My familiarity with the practice of medical students performing pelvic examinations on anesthetized women for teaching purposes comes from discussions with students, researchers, and by reviewing the current national medical literature. I believe a law will assist the medical school and empower its medical students to curtail such practices that are artifacts of outdated teaching methods.

The easy answer in this case is that it is good medical practice and good medical education to require a medical student to identify him or herself as a student and explicitly obtain informed consent before performing a pelvic examination for teaching and learning purposes when a woman is about to undergo a procedure under anesthesia. Although now discouraged by professional organizations, the routine practice of allowing medical students to perform pelvic examinations on anesthetized women without informed consent remains entrenched in national medical education. The AMA and the American Academy of Obstetrics and Gynecology, among other professional organizations, have adopted policies against it.

Let me summarize the results of repeated studies on the attitudes of women undergoing gynecological surgery to the prospect of receiving a pelvic exam for teaching purposes while under anesthesia. A 2010 study at a major teaching hospital reports, "most patients are willing to allow medical students to perform such examinations, but the patients feel strongly that someone must seek out their permission beforehand." It is obvious that a pelvic exam that is not diagnostic and without consent degrades the dignity and autonomy of women patients. Should a woman learn that the procedure took place, she will most certainly and most justifiably feel violated, and her trust in her physicians diminished.

While learning to perform pelvic examinations is important, to do so without permission is bad medical education. A study published in the American Journal of Obstetrics recently revealed that following the medical rotation in obstetrics, where students were required to perform pelvic exams on anesthetized patients without consent, the practice was linked to an overall decline in

attitude about the importance of informed consent. If we do not require students to obtain consent, we squander an opportunity for medical students to learn how to establish a positive and respectful interaction with their female patients.

No one disputes the educational value of conducting pelvic examinations on anesthetized patients. There is less discomfort for the patient; medical students have a better opportunity to palpate internal organs when muscles are relaxed; and it allows patients to participate in a meaningful teaching and learning opportunity that will benefit future patients. Without explicit consent, however, the risk of harm to the dignity of the woman and the ethical development of the student outweighs any clinical practice benefit.

This law is modeled after a California law that has been on the books since 2003. I hope that Hawai'i will join California, Virginia, and Oregon by enacting a law to expressly require informed consent before these examinations.

Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Hazel Beh", written in a cursive style.

Hazel Beh
Co-Director
Health Law Policy Center

"§453- Pelvic examinations on anesthetized or unconscious female patients. A physician, osteopathic physician, surgeon, or student participating in a course of instruction, residency program, or clinical training program shall not perform a pelvic examination on an anesthetized or unconscious female patient unless:

- (1) The patient gives prior verbal or written informed consent to the pelvic examination;
- (2) The performance of a pelvic examination is within the scope of care for the surgical procedure or diagnostic examination scheduled to be performed on the patient; or
- (3) The patient is unconscious and the pelvic examination is required for diagnostic purposes."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

**PRESENTATION OF THE
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Friday, March 16, 2012
1:30 p.m.

TESTIMONY ON HOUSE BILL NO. 2232, H.D. 2, RELATING TO HEALTH.

TO THE HONORABLE JOSH GREEN, M.D., CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Constance Cabral and I am the Executive Officer of the Hawaii Medical Board ("Board"). House Bill No. 2232, H.D. 2 addresses the circumstances under which pelvic examinations may be performed by certain health care providers and medical students. The Board supports this bill.

Please be advised that the companion bill, S.B. No. 2578, was heard by this Committee on February 10 and passed with amendments. However, it was not heard by the Senate Committee on Judiciary and Labor and therefore, this is the only live measure.

Thank you for the opportunity to provide testimony in support of H.B. No. 2232, H.D. 2.



1350 S. King Street • Suite 309 • Honolulu, Hawaii 96814 • www.pphi.org • Phone: 808-589-1156 • Fax: 808-589-1404

March 16, 2012

Testimony in Support: HB 2232 HD2

To: Chair Gilbert Josh Green, Vice Chair Clarence Nishihara, and Members of the Senate Committee on Health

From: Katie Reardon Polidoro, Director of Government Relations & Public Affairs

Re: Testimony in Support of HB 2232 HD2, Relating to Health

Thank you for hearing HB 2232 HD2. Planned Parenthood of Hawaii (PPHI) strongly supports this bill, which would require medical professionals and students to obtain informed consent before performing pelvic examinations on patients for training purposes, when patients are incapacitated due to anesthesia or otherwise unconscious.

For many women, pelvic examinations are intimate medical screenings that require privacy and trust between a patient and her doctor. Making sure that patients have a clear understanding and explanation of what the examination will entail is an important part of care. The performance of pelvic exams on patients without their knowledge is unethical and an unacceptable violation of a patient's right to privacy. In fact, the American College of Obstetricians and Gynecologists has condemned the practice.¹

While it is important that medical students learn how to correctly perform pelvic exams, the ability to obtain informed consent and to practice respect for patients is an equally important lesson for students. Further, exams on unconscious, uninformed patients are not necessary in Hawaii. Willing and trained women currently participate in the John A. Burns School of Medicine's Professional Patient Program. That program provides third year medical students studying obstetrics and gynecology the opportunity to practice pelvic exams in a safe environment.

Because we believe that performing intimate exams on unconscious, uninformed patients is unethical, a violation of patients' rights, and is harmful to women, we support HB 2232 HD2. Please pass this bill.

¹ American College of Obstetrics and Gynecologists, Committee On Ethics, *Professional Responsibilities in Obstetric-Gynecological Medical Education and Training*, August 2011, http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Ethics/Professional_Responsibilities_in_Obstetric-Gynecologic_Medical_Education_and_Training



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Presented Before the
House Committee on Judiciary
Friday, March 16, 1:30 p.m.

By

Virginia Hinshaw, Chancellor

And

Jerris R. Hedges, MD

Dean, John A. Burns School of Medicine
University of Hawai'i at Mānoa

HB 2232 HD2 RELATING TO HEALTH

Aloha Chair Green, Vice Chair Nishihara and members of the Senate Committee on Health.

The John A. Burns School of Medicine (JABSOM) supports the bill as written in HD2.

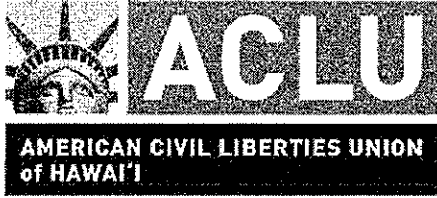
JABSOM's Department of Obstetrics and Gynecology (OB-GYN) and Women's Health has a policy regarding pelvic exams under anesthesia which is consistent with this measure. Medical students introduce themselves to patients requesting permission to be involved in their care. If a pelvic exam under anesthesia is planned, they request permission to perform the examination. The policy and procedures in effect at this time do require informed consent for the performance of a pelvic exam by a medical student affiliated with JABSOM.

All compensated and non-compensated JABSOM faculty members have been oriented to the policy. All medical students receive training regarding the policy on the first day of their rotation on the clinical service. The policy is included with their orientation paperwork. Kapi'olani Medical Center for Women and Children and The Queen's Medical Center, where our physicians conduct training, have both received the policy and it has been reviewed by their administrative and executive medical groups to ensure hospital and medical school policies are concordant.

This year a randomly selected group of women were questioned post-operatively and asked if a medical student was involved in their care. If they answered affirmatively, they were questioned regarding this policy. In all cases the patient stated the medical student had approached the patient, and informed the patient they would be participating in the patient's care including performing a pelvic exam, if such an exam was required for diagnostic purposes or clinical care.

The OB-GYN rotation may be the only time some medical students are exposed to women's health, and it may be their only opportunity to perform pelvic exams before obtaining a medical license. Many will go on to other disciplines in medicine. Being able to perform a pelvic exam is a necessary skill for a physician. Performing a pelvic exam while a patient is anesthetized is a superb learning experience, as the patient is fully relaxed and the intra-abdominal organs are easier to examine. We know that many of our JABSOM graduates practice medicine in Hawai'i after they complete their training. It is important that we train the best physicians possible for our state and optimize their opportunities to perform pelvic exams, while respecting a patient's right to informed decision making prior to such an exam.

Thank you for this opportunity to testify.



Committee: Committee on Health
Hearing Date/Time: Friday, March 16, 2012, 1:30 p.m.
Place: Conference Room 229
Re: Testimony of the ACLU of Hawaii in Support of H.B 2232, HD2, Relating to Health

Dear Chair Green and Members of the Committee on Health:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 2232, HD2 which would regulate the practice of performing pelvic examinations performed on anesthetized or unconscious female patients.

The ACLU has a deep commitment to individual privacy and decision-making, based on the right to control the confidentiality of one’s own medical and other private information and how that information is used, and the right to make one’s own informed decisions about medical testing and treatment. Breaches of privacy in the form of unauthorized and unnecessary medical treatment, particularly pelvic examinations of anesthetized or unconscious women, may constitute criminal and civil offenses and must not be tolerated.

Informed consent is both morally and ethically necessary. The American Association of Medical Colleges, which represents 125 accredited U.S. medical schools and over 400 teaching hospitals labeled performance of pelvic exams on women under anesthesia as unethical and unacceptable. Hawaii’s women must be able to trust that our medical professionals are held to the highest standards of care.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

Thank you for this opportunity to testify.

Sincerely,
Laurie Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
P.O. Box 3410
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In support of HB 2232 HD2

Shawn S. Barnes, M.A.
4th year medical student
University of Hawaii John A. Burns School of Medicine

My name is Shawn Barnes, a 4th year medical student at the University of Hawaii John A. Burns School of Medicine, and I submit this testimony in strong support of HB 2232. I also urge the Senate Committee on Health to amend the House Draft and restore the bill to language of the Senate Bill 2578 Senate Draft 1 in order to achieve the bill's true intent.

I am a 4th year medical student having recently completed my 3rd year OB/GYN clerkship. During my third year, I have had the chance to actively participate in various aspects of medical training, which have spanned the emotional spectrum from fascinating to mundane to exhilarating to heartbreaking. However, in OB/GYN I encountered the first act of medical training that left me ashamed. For three weeks, 4-5 times/day, I was asked to, and did, perform pelvic examinations on anesthetized women, without specific consent, solely for the purpose of my education. Typically this would unfold as follows. I would be assigned a gynecologic surgery case to scrub in on. I would be required to go meet the patient beforehand and introduce myself as “the medical student on the team” or some such vague statement of my role in the procedure, without mentioning a pelvic exam. I would then follow the patient into surgery. Once anesthesia was administered and the patient was asleep, the attending or resident would ask me to perform a pelvic exam on the patient for educational purposes. To my shame, I obeyed. This experience is not limited to my own medical training. A report in 2003, found that over 90% of

medical students in Philadelphia were asked to perform unconsented pelvic exams on anesthetized women for educational purposes.¹

When I voiced my concern over these unconsented practice pelvic exams, I found that it was considered standard practice by attending physicians and residents. In fact, I was told I was the first medical student or resident in institutional memory to express concern over the practice. This reaction stood in stark contrast to that of female friends, outside the medical field, to whom I related the story. These women were shocked and horrified that such a practice goes on and considered it an egregious violation of doctor-patient trust. A strange dichotomy seemed to exist between a culture of medicine that considered unconsented pelvic exams a non-issue, and those outside the world of medicine that seemed to have no idea the practice existed and were repulsed by the thought of it.

My concerns and my shame over this practice and my own participation in it, begged me to ask what seemed to be a basic question; Why not require the medical student involved in the case to simply ask specific consent to do a practice pelvic exam on a woman under anesthesia?

In conversations with attendings, residents, and other medical students, along with a review of the literature, I have identified 5 basic arguments used to defend unconsented practice pelvic exams. Here I attempt to refute these.

1. Unconsented medical student pelvic exams on anesthetized women is standard practice. Specific consent is a non-issue.

Some may believe that these exams are within accepted guidelines, and therefore a non-issue. However, the American College of Obstetrics and Gynecology (ACOG), American Medical Association (AMA), and the Association of American Medical Colleges (AAMC) have all released official statements condemning the practice. These are the organizations that make guidelines. A 2007 opinion from the American College of Obstetricians and Gynecologists (ACOG) is worth quoting at length:

*"Physicians must learn new skills and techniques in a manner consistent with the ethical obligations to benefit the patient, to do no harm, and to respect a patient's right to make informed decisions about health matters. These obligations must not be unjustifiably subordinated to the need and desire to learn new skills...Some procedures, such as pelvic examinations, require specific consent. If any examination planned for an anesthetized woman undergoing surgery offers her no personal benefit and is performed solely for teaching purposes, it should be performed only with her specific informed consent, obtained when she has full decision-making capacity."*²

The American Medical Association (AMA) has issued a similarly worded call for consent.³ In perhaps the strongest rebuke of the practice, the Association of American Medical Colleges (AAMC) has issued this 2003 statement:

*"To become effective physicians, medical students and residents not only must acquire clinical skills, they must also learn to treat their patients always with respect and dignity. Recent reports have suggested that medical students are performing pelvic examinations on women under anesthesia, without their knowledge and approval. AAMC believes that such practice is unethical and unacceptable."*⁴

The position of these organizations seems clear. The ACOG, AMA, and AAMC all call for mandatory and specific consent before pelvic exams for educational purposes. As the AAMC states, to do otherwise is "unethical and unacceptable." In addition, the practice is currently illegal in California, Illinois, and Virginia.

2. Patients accepting care at a teaching hospital give implicit consent for such exams.

Leaving aside the requirement for specific and explicit consent stated by the AMA, ACOG, and AAMC, some may believe that accepting care at a teaching hospital is tantamount to consent to a practice pelvic exam under anesthesia. We must first remember that patients tend to seek care at facilities that are geographical nearby, where their regular physician has privileges, or where their insurance is accepted. Consent forms at teaching hospitals tend to use language stating that medical students and residents may be involved in that case. That involvement is not specified. Also, consent forms tend to authorize care for the benefit of the patient, and not solely for educational purposes.⁵

3. A medical student does not need to ask specific consent for every minor activity they may perform during surgery, such as cutting sutures, closing an incision, or retracting tissue. A practice pelvic exam is no different.

Medical students are often called upon to perform any number of minor activities to learn technique and assist the surgery team. Clearly, a medical student is not expected to seek specific consent for a laundry list of minor actions during surgery ("Mrs. X., is it OK if I cut your sutures...how about retract your tissue...etc"). However, the pelvic exam is intrinsically different. The pelvic exam is a much more personal and intimate act, very different from suturing a wound. As a male medical student, I am required to have a chaperone when performing a pelvic exam on a conscious patient, but I do not need one to remove staples. Clearly, medical professionals understand that the pelvic exam is not

analogous. In a study of women's attitudes on the subject, one study found that 100% (69/69) of women surveyed expected to be specifically consented for pelvic exams by students for educational purposes when under anesthesia.⁶ Several of the respondents said they would feel "physically assaulted" if this were not done. Clearly, both patients and doctors understand the unique nature of the pelvic exam.

4. There is no such thing as a “practice” pelvic exam in gynecologic surgery, so the point is moot.

Some may argue that any pelvic exam before gynecological surgery is medically warranted and is intrinsically part of the procedure and/or care. Therefore, by definition, there can never be a “practice” pelvic exam for “educational purposes”. Such thinking would render the ACOG, AMA, and AAMC recommendations moot, as they apply to pelvic exams for “educational purposes”. Indeed, such a view would posit the impossibility of pelvic exams for educational purposes in the O.R. However, this point can be easily refuted. While the attending and resident use the pelvic exam for purposes of diagnosis, trocar placement, anatomical layout, surgical procedure, etc, the medical student is not in the O.R. to diagnose, plan care, or decide on treatment. In fact, the medical student is often legally prohibited from doing so. He or she is inherently there to learn. Therefore, a medical student pelvic exam under anesthesia is clearly done for educational purposes.

5. If medical students were required to seek specific consent, no women would give it, and students would miss out on a valuable learning experience, jeopardizing the competence of future physicians.

There is no doubt that a pelvic exam under anesthesia offers a valuable learning experience for students. Anesthesia promotes relaxation of the pelvic musculature, which allows for an easier and more detailed exam, while sparing the patient discomfort. In addition, a pelvic exam in the operating room allows the student to immediately correlate findings from the exam with actual anatomy and pathology revealed during surgery.⁷ The question is whether seeking consent would effectively eliminate this opportunity for students. The literature suggests otherwise. The two studies that have investigated this question in the U.S. and Canada found the percentage of women who would agree to a medical student pelvic exam under anesthesia for educational purposes, if asked first, to be 53% and 62%, respectively.^{8,9} If these numbers are to be believed, we need not fear the loss of the educational opportunity by asking permission for it.

A final thought: Not asking for consent shortchanges medical students as well as patients

Asking for consent for pelvic exams is important not only because it respects the rights of the patient, but also because it re-affirms the value doctors in training should place in such rights. A statement by Ubel *et al* bears repeating: “An ethical medical education should teach the precedence of patients' rights.”⁸ What are students taught when consent for an intimate examination is bypassed? One answer to this question is suggested by a disturbing 2003 report. In a survey of over 2,000 American medical students, those students that had completed a 3rd year OB/GYN clerkship thought that consent was significantly less important than those students who had not yet completed a

3rd year OB/GYN clerkship.¹ This effect was specific to the OB/GYN clerkship, as the total number of other clerkships completed was not associated with any significant change in attitude toward consent. Perhaps it should not come as a surprise that obtaining medical education unethically, through an unconsented and intensely personal exam, creates doctors with a significantly lower valuation of the idea of consent, doctors who become residents and attendings who assume unconsented pelvic exams are standard practice, and pass that attitude on to the next generation of medical students.

Conclusion

The practice of unconsented practice pelvic exams by medical students on women under anesthesia has been condemned by national organizations such as the American College of Obstetricians and Gynecologists (ACOG), American Medical Association (AMA), and Association of American Medical Colleges (AAMC). Specific consent for such educational exams is necessary. Research has shown that over half of women would likely consent to such exams, if asked. The act of asking allows medical students to learn the value of patient autonomy and reinforces doctor-patient trust. Why not ask first?

References

1. Ubel P, Jepson C, Silver-Isenstadt A. Don't ask, don't tell: A change in medical student attitudes after obstetrics/gynecology clerkships toward seeking consent for pelvic examinations on an anesthetized patient. *American Journal of Obstetrics and Gynecology*. 2003;188:575-579.
2. American College of Obstetricians and Gynecologists Committee on Ethics. Professional responsibilities in obstetric-gynecologic education. *ACOG Committee Opinion*. 2007;358:1-4.
3. American Medical Association. Medical student involvement in patient care. *Opinion 8.087*. 2001.

4. Association of American Medical Colleges. *AAMC Statement on Patient Rights and Medical Training*. Press release. June 12, 2003.
5. Wilson, RF. Unauthorized practice: teaching pelvic examination on women under anesthesia. *Journal of the American Medical Women's Association*. 2003;58(4):217-20
6. Bibby J, Boyd N, Redman CWE, Luesley DM. Consent for vaginal examination by students on anaesthetised patients. *The Lancet*. 1988;2(8620):1150.
7. Wolfberg AJ. The patient as ally: learning the pelvic examination. *New England Journal of Medicine*. 2007;356(9):889-90.
8. Ubel PA, Silver-Isenstadt A. Are patients willing to participate in medical education. *Journal of Clinical Ethics*. 2000;11(3):231-235.
9. Wainberg S, Wrigley H, Fair J, Ross S. Teaching pelvic examinations under anesthesia: What do women think? *Journal of Obstetrics and Gynaecology Canada*. 2010;32(1):49-53.

Green4 - Mailene

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 14, 2012 2:22 PM
To: HTHTestimony
Cc: ndavlantes@aol.com
Subject: Testimony for HB2232 on 3/16/2012 1:30:00 PM

Testimony for HTH 3/16/2012 1:30:00 PM HB2232

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Nancy Davlantes
Organization: Individual
E-mail: ndavlantes@aol.com
Submitted on: 3/14/2012

Comments:

As one of the many women who were unaware such a practice even existed, and at a time when women's health issues are the subject of nationwide politics, it seems a no-brainer to correct this unethical practice. These exams must not be performed for "learning purposes" without the informed consent of the woman.