



Legislation Details (With Text)

**File #:** Res 0850-2019      **Version:** \*      **Name:** Including in the definition of professional misconduct performing a pelvic examination without consent on an anesthetized or unconscious person.. (S.1092B/A.6325A)

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**Title:** Resolution calling upon the New York State Legislature to pass and the Governor to sign S.1092B/A.6325A, in relation to including in the definition of professional misconduct performing a pelvic examination without consent on an anesthetized or unconscious person.

**Sponsors:** Mark Treyger, Helen K. Rosenthal

**Indexes:**

**Attachments:** 1. Res. No. 850, 2. April 18, 2019 - Stated Meeting Agenda with Links to Files, 3. Hearing Transcript - Stated Meeting 4-18-19, 4. Minutes of the Stated Meeting - April 18, 2019

| Date      | Ver. | Action By    | Action                      | Result |
|-----------|------|--------------|-----------------------------|--------|
| 4/18/2019 | *    | City Council | Introduced by Council       |        |
| 4/18/2019 | *    | City Council | Referred to Comm by Council |        |

Res. No. 850

Resolution calling upon the New York State Legislature to pass and the Governor to sign S.1092B/A.6325A, in relation to including in the definition of professional misconduct performing a pelvic examination without consent on an anesthetized or unconscious person.

By Council Members Treyger and Rosenthal

Whereas, According to multiple studies and reports, the practice of medical students performing pelvic examinations on anesthetized or unconscious persons without receiving explicit informed consent is widespread throughout the United States; and

Whereas, The practice involves medical students, under supervision by training physicians, performing pelvic examinations on anesthetized gynecological surgery patients in the operating room, where the examination is not within the scope of the patient’s care and is solely for teaching purposes; and

Whereas, While teaching hospitals provide consent forms indicating that medical students may be involved with a patient’s care, such forms do not necessarily contain explicit disclosure of pelvic examinations

performed by medical students during procedures where a patient will be temporarily incapacitated; and

Whereas, A 2005 study found that a large majority of medical students had performed pelvic examinations on gynecological surgery patients who were under anesthesia, and that in nearly three-quarters of those cases the patients had not specifically consented to such examinations; and

Whereas, The American College of Obstetricians and Gynecologists, the American Medical Association and the Association of American Medical Colleges have all condemned the practice and issued recommendations calling for specific informed consent for pelvic examinations performed by medical students on anesthetized patients; and

Whereas, In addition to ethical and professional concerns, it is also widely argued that the educational value of pelvic examinations under anesthesia is limited; and

Whereas, Many teaching hospitals now employ “professional patients” - experienced volunteers who are paid to undergo examinations and provide guidance and feedback to medical students - to help teach medical students how to perform pelvic examinations, a teaching process that many believe is more valuable than examinations performed on patients under anesthesia; and

Whereas, Although it is likely that the prevalence of unauthorized pelvic examinations by medical students has declined in recent years, the extent to which the practice still persists is unclear and it remains legal in the vast majority of states; and

Whereas, Only five states - California, Illinois, Virginia, Oregon and Hawaii - have enacted legislation prohibiting the performance of nonconsensual pelvic examinations on anesthetized or unconscious persons; and

Whereas, S.1092B, introduced by New York State Senator Roxanne J. Persaud, and companion bill A.6325A, introduced by New York State Assembly Member Michaelle C. Solages, would prohibit performing or supervising a pelvic examination on an anesthetized or unconscious patient without first obtaining the patient’s informed consent to the pelvic examination, unless the examination is within the scope of the patient’s surgical procedure or diagnostic examination for which informed consent has been obtained or, in the case of an

unconscious patient, the examination is required for diagnostic purposes and is medically necessary; and

Whereas, Specifically, the legislation would amend the Education Law by adding the above language to the definition of professional misconduct, which would make the performance or supervision of a pelvic examination on an anesthetized or unconscious patient without first obtaining informed consent to the pelvic examination subject to penalties including suspension or revocation of a license to practice medicine; and

Whereas, Legislation prohibiting nonconsensual pelvic examinations on anesthetized or unconscious patients is vital to safeguarding the autonomy and bodily rights of persons in New York City and throughout New York State; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign S.1092B/A.6325A, in relation to including in the definition of professional misconduct performing a pelvic examination without consent on an anesthetized or unconscious person.

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