

SCHAUM LAW OFFICES

600 Old Country Road, Suite 328, Garden City, NY 11530
516-228-8766 Fax: 516-228-3559 SCHAUM@SCHAUMLAW.COM

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TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

We realize that most, if not all, of those reading this report are aware of the recently enacted legislation in New York concerning unauthorized pelvic exams during surgery but since the bill passed less than a year ago and becomes effective April 4th of this year it seemed appropriate to carefully recite its provisions.

Quite recently a spate of news articles claimed that many patients undergoing gynecological procedures were unaware that pelvic exams were being performed upon them as educational tools. Legislative proposals spread quickly, and New York joined the process with its new law in 2019.

New York requires that a pelvic exam cannot be performed on an unconscious patient unless that patient (or authorized representative) has given PROR written or oral consent specifically mentioning the pelvic examination. The person performing or supervising the procedure must be legally authorized to do so. Further, the pelvic examination itself must be within the scope of care for the procedure or diagnostic exam to be performed.

The rules described in the preceding paragraph are written in the conjunctive and thus all must be fulfilled. What if the patient is unconscious and incapable of issuing consent and an exam is apparently medically necessary? If the patient's life or health should be endangered by a delay to obtain consent then, in those circumstances, an exam may be conducted.

There are teeth into the new law. Anyone either performing – or – supervising the performance r an unauthorized pelvic exam is considered guilty of professional misconduct with all the consequences which follow from such a finding.

In addition, as if to add a cymbal crash, the legislation amended the Education Law by writing a new subdivision to include performance and supervision of pelvic exams as a so-called addition to existing medical malpractice protections.

Respectfully submitted,

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