

<b>LFC Requester:</b>	<b>Kelly Klundt</b>
-----------------------	---------------------

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** 02/3/2024  
**Bill No:** SB 257

<b>Sponsor:</b>	<u>Senators Moores and Sedillo Lopez</u>	<b>Agency Name and Code Number:</b>	<u>University of New Mexico-952</u>
<b>Short Title:</b>	<u>Intimate Exams of Certain Patients</u>	<b>Person Writing</b>	<u>Lenaya Montoya</u>
		<b>Phone:</b>	<u>5052771670</u>
		<b>Email</b>	<u>lenayamontoya@unm.edu</u>

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 257 requires that 6 months following the effective date of this bill, a hospital shall implement a policy to prohibit a health care provider or any student under the supervision of a health care provider from performing an intimate examination upon an anesthetized or unconscious patient unless the patient or patient’s authorized representative has provided informed consent to the examination.

**FISCAL IMPLICATIONS**

UNM Hospital does not recognize any substantial fiscal implications related to SB 257.

## **SIGNIFICANT ISSUES**

UNM Hospital has identified the following significant issues:

- “Anesthetized patient” needs to be defined, does it include patients that are sedated.
- Emergent patients that are unconscious and unable to consent should be excluded.  
**Example:** Trauma patient in a car accident that is unconscious requires a rectal exam by standard of care to check for blood.
- It is common for sedated patients in the ICU to require urinary catheter placement, replacement, removal, genital exam/rectal exam for bleeding, and cleaning of genital region and these are considered routine care. Waiting for informed consent would delay care and adversely affect patients.
- Legislation requiring informed consent for intimate exams by providers for whom this care is part of their normal diagnosis and treatment—i.e., gynecologists, urologists—could delay or prevent needed care.
- This legislation interferes with the physician-patient relationship and may have unintended consequences that result in health inequities.

## **PERFORMANCE IMPLICATIONS**

Intimate exams that are part of a patient’s care are different from those performed solely for educational purposes. UNM Hospital agrees that patients have the right to consent or not consent for a non-licensed learner who performs an exam for educational purposes only and already have a process for this.

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

- An alternative is the process UNM Hospital already uses to ensure explicit consent for medical students and other students for whom the only reason to perform an exam under anesthesia is educational benefit. This consent is indicated on the pre-operative note/history and physical as well as on the consent.
- UNM Hospital maintains the highest degree of professionalism and performs intimate exams under sedation and anesthesia as part of the diagnosis and treatment of a variety of conditions and follow ethical guidelines for informed consent.
- UNM Hospital disagrees with legislating the patient/physician relationship as it may cause unintended barriers and inequities in care. Alternatives would include:
  - Permitting a pelvic exam without specific consent where the exam is within the scope of care for the patient or required for diagnostic purposes.
  - Permitting an exam if the patient is unconscious and incapable of providing consent if the pelvic exam is necessary for diagnostic or treatment purposes.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

No likely consequences as learners are already giving explicit informed consent for intimate exams. Providers obtain informed consent for all procedures that occur under anesthesia except for emergencies where the patient's life is threatened or where the patient is already unconscious; in these cases, a standard process, two physicians document the need to proceed with a procedure under anesthesia due to emergency, is already followed at UNM Hospital.

### **AMENDMENTS**