Gaps in Informed Consent for Intimate Exams Under Anesthesia

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Exam under anesthesia (EUA) of intimate body parts without patient knowledge has appropriately gained increased scrutiny in medical literature[1,2] and popular press[3,4] alike. EUA is routinely performed as part of medical care by the treating team to understand anatomy, diagnose disease, and prepare for an intervention. Allowing trainees to participate in these exams is a longstanding and routine practice at many teaching institutions, affording the opportunity for inexperienced trainees to practice without the stress of an awake and uncomfortable patient. Patients may not be aware of either medical or training purposes, and in particular, the idea of being examined by trainees without their knowledge can be traumatizing to patients[1] and may even be considered unlawful touching.

Pelvic EUA has received the most attention in calls for explicit informed consent,[2] although a patient's right to autonomy extends to any part of their body. Opponents of explicit consent have argued that asking permission would decrease the number of opportunities for trainees to practice important skills. This fear lacks support; indeed, a recent retrospective chart review of gynecologic consent forms demonstrated that the vast majority of patients consented to EUA, suggesting that many training opportunities with willing patients would still exist.[5] Further, learning about unknowing patients also harms learners[6]; students may feel guilt or anxiety, and operating room staff believing that the patient was violated can harbor distrust.[7]

Despite state laws and statements from several medical organizations (AAMC, ACOG, AMA) against EUA and medical student exams without explicit consent,[8] there remains no standard practice for what language to include in informed consent documents (ICDs). We aim to highlight gaps in ICD language and considerations for improving transparency regarding EUA.

CURRENT FINDINGS

In 2022, our research group collected and analyzed the content of generic (not procedure-specific) ICDs and hospital demographic data from a representative sample of high-volume US hospitals using the American Hospital Association (AHA) Annual Survey Database.[9] Of 110 ICDs, each from different hospitals, only 4 (3.6%) included text about EUA (Table 1), and all were from the 42 academic institutions in this sample (i.e., 9.5% of the institutions where trainees may be performing EUA). The purpose of EUA for 2 ICDs was educational: one was for "general educational purposes" while the other was specifically worded to allow medical students to perform EUA. The purpose of EUA for the other 2 ICDs was medical: both discussed EUA indicated for the procedure, while one also included specific language about pelvic/prostate/rectal/breast examination, medical necessity, and emergencies.

Call for Transparency of Exam Under Anesthesia

Any genital EUA must require full informed consent with appropriate documentation. Patients who undergo exams without consent report trauma and loss of trust, with one patient stating, "if the doctor had more of a conversation with me, I probably would have consented. It was the absence of consent that made this a trauma."[3] Unconsented touching is inherently wrong, regardless of whether the patient or other care team member is aware of it, and a single instance erodes trust in the system. Moreover, when patients independently discover undisclosed aspects of their care, they often experience heightened distress due to the lack of transparency.

Our study examined the rate of EUA disclosure in generic ICDs; these documents would apply to any procedure, whether or not an EUA might be contemplated or expected. While some hospitals might have separate forms for EUA that we did not have access to, it strains credibility that this explains the 96% of hospitals that did not have EUA in their standard ICD. Further, while the focus on EUA in the ethics literature and popular press has been on intimate exams, EUA can apply to any trainee or medical student exam that was conducted as part of the surgical process or any exam of body areas not part of the surgical site(s). As written ICD disclosures serve as the main practical means of signaling to physicians which topics to discuss during the consent process, erring on the side of inclusion for this important topic is warranted, at least for any hospital with trainees. In April 2024, the US Department of Health and Human Services (HHS) mandated that

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TABLE 1. Hospital Demographic Data and Exam Under Anesthesia Purpose Associated with Informed Consent Document Text

Region	Public/private	Academic	Exam under anesthesia purpose
Northeast	Private	Yes	General educational purposes
South	Public	Yes	Performed by medical student
Northeast	Private	Yes	Indicated for procedure, medically necessary, emergency, pelvic/prostate/rectal/breast
Midwest	Private	Yes	Indicated for procedure

all educational exams of sensitive organs must be documented during the consent process.[10] With $< 5\%$ of consent forms in our 2022 study containing clauses related to EUA, much work needs to be done to identify the best language for disclosing this practice and encourage hospitals to include these clauses in their ICDs.

CONCLUSIONS

In this paper, we identified a significant gap in ICD language about EUA. Of generic ICDs collected from 110 high-volume hospitals across the United States, only 4 discussed EUA, and only 1 explicitly asked for consent to allow medical students to perform EUA. Addressing the lack of EUA transparency in ICDs is critical to safeguarding patient autonomy and trust.

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