

Guideline

Subject: **The Presence of Chaperones during Intimate Forensic Medical Examinations**

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This Guideline provides guidance for forensic medical practitioners and others in the Health industry regarding the presence of chaperones during intimate examinations. The procedure applies to all patients regardless of age and gender and to all examining medical professionals regardless of gender.

The presence of a chaperone may reduce the risk that a patient will experience feelings of vulnerability. The presence of a chaperone might also protect both the patient and the doctor from allegations of inappropriate behaviour and misconduct. Health professionals are reminded of the need to comply with legislation relevant to the jurisdiction in which they work, local protocols and requirements for good practice in relation to obtaining consent for examination.

Relationships between patients and their treating medical professionals are based on trust and mutual respect. On occasion, by mutual agreement of the consenting patient and medical professional, an intimate examination may be conducted in the absence of a chaperone. When an intimate examination is conducted in the absence of a chaperone this should be documented in the patient's record inclusive of the reason for the absence of a chaperone.

Consideration should also be given to postponement of an intimate examination when a doctor's offer of a chaperone is declined by a patient and postponement of the examination does not impact on the patient's healthcare.

Definition of Terms

Chaperone

A chaperone is an independent and impartial third person who is present during a physical examination in order to witness the conduct of the examination.

Caution should be exercised in relation to the use of a chaperone who is not a medically qualified person e.g. it would be acceptable for a chaperone to be a registered or enrolled nurse or an appropriately trained person who understands the role they are performing on behalf of the patient and the doctor. A relative or friend of the patient is not an impartial observer and so would not usually be a suitable chaperone, however can act as a support person in addition to a chaperone.

The chaperone should, where possible, be of a gender approved by the patient and/or the patient's support person.

Chaperones should respect the privacy and dignity of the patient at all times.

Consideration may be given to an Auditory chaperone whereby the chaperone is not in the same room but in another room, within hearing distance (perhaps with the door ajar). The patient is told that the chaperone can enter the room whenever the patient likes, the patient can either let the examiner know or call out to the chaperone.

Intimate Examination

Intimate examinations are generally considered to be examinations of the genitals (including the perineal and ano-genital regions), breasts, and internal examinations, however it should be noted that patients may have their own views regarding what constitutes an intimate examination. This could include any examination where it is necessary to touch or even be close to the patient, particularly if lighting levels are low.

The definition of an intimate examination is based on the patient's perspective of the nature of the examination rather than the routine nature or high frequency with which any group of health professionals conducts such examinations or the purpose of such examinations.

Sexual Misconduct

Sexual misconduct is defined by the Medical Board of Australia as "engaging in sexual activity with a current patient regardless of whether the patient consented to the activity or not, a person who is closely related to a patient under the doctor's care or a person formerly under a doctor's care" as well as "making sexual remarks, touching patients or clients in a sexual way, or engaging in sexual behaviour in front of a patient". Health professionals should also be aware that inappropriate disrobing or inadequate draping for a physical examination, and conducting intimate examinations without adequate prior explanation (and thus without informed consent) may be considered a breach of sexual boundaries. Health professionals should be cognisant of definitions regarding sexual misconduct and related guidance provided by governing bodies within their jurisdictions.

Procedure Details

- Establish there is a genuine need for an intimate examination.
- Explain to the patient and chaperone what is to occur during the examination. Explanation should include the following;
 - the purpose of the examination and why it is necessary;
 - what parts of the body are to be examined. If disrobing is required, this should be explained to the patient;
 - what the examination entails. This may include any discomfort or sensations the patient may feel; and
 - if anyone else will be present in the room when the examination is being undertaken (e.g. a chaperone).
- Provide an opportunity for the patient and his/her support person to ask questions.
- Gain consent for the examination. Do not proceed if valid consent is not obtained. Consent should be documented.
- Allow a support person of the patient's choosing to be present during examination, if practical.
- Gain consent for the presence of a third party such as a chaperone or medical student.
- In certain situations, when the offer of a chaperone has been declined by the patient or parent, a medical professional may decline to conduct an intimate examination. Particular care regarding the use of a chaperone should occur when concerns arise around patients' or parents'/guardians' mental health, cognitive skills or emotional state. [See Guideline: Assessment of capacity to consent to examination and forensic procedures, *currently under draft*].

- If a chaperone is not available, or the patient is not comfortable with the choice of chaperone, then the doctor should offer to postpone the examination until an appropriate chaperone is available, if this does not impact on the patient's care.
- Be aware of any sign that the patient is uncertain or has withdrawn consent at any time during the examination and do not proceed if this occurs.
- Allow the patient to undress in private.
- Provide suitable covering, for example a sheet or gown.
- Avoid exposing more of the patient's body than necessary and ensure the patient remains undressed no longer than is needed for the examination.
- Use gloves when examining the ano-genital region.
- Clear documentation must occur when a chaperone is used or the offer of a chaperone is declined by the patient. When a chaperone is used, document his/her name in the medical record.
- The medical professional should be careful not to reveal confidential patient information in front of the chaperone.

Guidance in Relation to Intimate Examinations of Children

The UK Law Lords determined that "the ability of a child under the age of 16 to make his or her own medical decisions is evaluated according to chronological age, considered in conjunction with the child's mental and emotional maturity, intelligence and comprehension". This concept is known colloquially as Gillick competence.

It is assumed that all children who assessed as not having Gillick competence will be physically examined in the presence of a parent, guardian or support person. Under such circumstances, the parent, guardian, child protection worker or similar may, with the medical professional's agreement, serve as both a support person for the child and as a chaperone for the physical examination.

Children who are assessed to have Gillick competence may elect to undergo intimate examinations in the absence of a parent or guardian. Such children may elect to have a support person of their choosing present during their intimate examination. This support person might or might not be a suitable person to act as a chaperone. Under such circumstances, consideration should be given to the presence of a chaperone in addition to a support person.

A competent minor's choice to decline the presence of a chaperone during an intimate examination should be respected while consideration is also given to their health professional's recommendation regarding the presence of a chaperone.

Guidance in Relation to Intimate Examinations of those experiencing Psychiatric illness or decreased capacity to consent

A chaperone may assist the patient and medical examiner in the examination in specific situations where the patient is vulnerable. These situations may include those with:

- Acute or chronic psychiatric illness.
- The acute effects of intoxication where examination is necessary for medical purposes.

For further details, refer to the *Guideline: Assessment of Capacity to Consent to Examination and Forensic Procedures (currently under draft)*.

References

AMA Position Statement: Patient Examination Guidelines - 1996. Revised 2012.
https://www.ama.com.au/sites/default/files/documents/Patient_Examination_Guidelines_2012_0.pdf

Medical Board of Australia: Good Medical Practice: A Code of Conduct for Doctors in Australia. March 2014. <http://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx>

Medical Board of Australia Guidelines: Sexual Boundaries: Guidelines for Doctors. October 2011. <http://www.medicalboard.gov.au/News/2011-10-28-Sexual-Boundaries-Guidelines-for-doctors-released.aspx>

RACGP Position on the Use of Chaperones in General Practice
<http://www.racgp.org.au/download/Documents/Policies/Clinical/racgpopposition-chaperones.pdf>

Royal Australasian College of General Practitioners (RACGP): Standards for General Practices (4th edition)
<https://www.racgp.org.au/download/documents/Standards/standards4thedition.pdf>

Royal Australasian College of Physicians. Genital Examination in Girls and Young Women: A Clinical Practice Guideline. August 2009.
https://ranzcoq.edu.au/RANZCOG_SITE/media/RANZCOG-MEDIA/Women%27s%20Health/Statement%20and%20guidelines/Clinical%20-%20Gynaecology/genitalExam_inGirls.pdf?ext=.pdf

The Royal Children's Hospital Melbourne Procedure: Chaperones for Intimate Examinations at http://www.rch.org.au/policy/policies/Chaperones_for_Intimate_Examinations/