



## Chaperones and Communication

*Keys to avoiding trouble*

### *Inside:*

*Bruce Carlson, MD,  
Recognized*

*On-Line  
Medical Practice*

*New on the Web*

*PA Registration Begins*

*By Michael Sherman, Chief Investigator  
and Philip Parshley, MD, Medical Director*

**R**ecently the Board of Medical Examiners has received and investigated an increasing number of complaints alleging improper examination or improper touching during an examination. These complaints typically allege sexual or voyeuristic behavior on the part of the practitioner. An analysis of these complaints shows that most of them are preventable.

Complaints of improper examination tend to have the following elements in common:

- The practitioner is male, and the patient is female and typically an adult.
- The patient is not familiar with the practitioner.
- The examination is an intimate one such as a breast, rectal, or gynecological exam requiring the patient to disrobe.
- No chaperone is present.
- The patient is either surprised by the practitioner's conduct in the examination, or is unaware of what the examination involves.

The last point is the key to many of these situations. Medical practitioners should keep in mind that what they see as a routine examination may be far from routine for the patient.

### Apprehension a major factor

Patients facing intimate examinations can be apprehensive and embarrassed. This

can be aggravated by an unfamiliar practitioner, unfamiliar surroundings, and uncertainty about the nature of and reason for the examination.

In turn, aggravated apprehension increases the risk that the person will experience an anomalous reaction to the examination. Investigation has shown that most of these complaints involved a patient's misinterpreting a practitioner's actions during an examination, and overreacting because of heightened apprehension.

### Chaperones strongly recommended

The American Medical Association Ethics Policy on the "Use of Chaperones During Physical Exams"<sup>1</sup> (a careful reading of which shows that it is as much about communication and consideration as it is about chaperones) speaks to preventing this problem.

The policy states:

*From the standpoint of ethics and prudence, the protocol of having chaperones available on a consistent basis for patient examinations is recommended. Physicians aim to respect the patient's dignity and to make a positive effort to secure a comfortable and considerate atmosphere for the patient—such actions include the provision of appropriate gowns, private facilities for undressing, sensitive use of draping, and clear explanations on various components of the physical examination. A policy that patients are free to make a request for a chaperone should be established in each health care setting. This policy should be communicated to patients, either by*

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620 Crown Plaza  
1500 SW First Avenue  
Portland, OR 97201  
(503) 229-5770

Toll-free in Oregon: 1-877-254-6263

Fax: (503) 229-6543  
[www.bme.state.or.us](http://www.bme.state.or.us)

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## From the Executive Director



### Bruce Carlson, MD, Receives Award

A special privilege of my job is getting to know and work with people who are especially dedicated to the welfare of their fellow citizens. Nowhere does this hold more true

than in the fine physicians who bring good medical care to the smaller rural communities where monetary rewards and opportunity for professional advancement may be less than in urban areas, but needs are just as great. So when I hear that one of these physicians, and especially one associated with the Board, has received special recognition, it is a pleasure to pass it on.

This year's Rural Practitioner of the Year award was granted May 25 in Dallas, Texas, to Hermiston physician Bruce Carlson, MD.

Each year the National Rural Health Association bestows this special recognition on a direct service provider for leadership in bringing health services to rural populations. For 30 years, Dr. Carlson has served this cause in many capacities—as a doctor who helped establish primary care clinics in five small rural Oregon communities with no resident physicians, as an advisor to rural health clinics, as a long-time member of the Statewide Rural Health Coordinating Council representing the Oregon Medical Association, and as a board member of the Oregon Rural Health Association, to give only a partial listing. He was also an early advocate of physician assistants practicing by remote supervision in medically underserved areas of the state, and has served on the Board of Medical Examiners' Physician Assistant Committee since 1993.

The Board would like to take this opportunity to say "thank you" to Dr. Carlson both for his work with this agency, and for his service to all Oregonians, especially those living in rural areas.

*Kathleen Daley*

## New on the Web – [www.bme.state.or.us](http://www.bme.state.or.us)

### Improved Site Map

If you haven't visited the Board's Web site recently, this is a good time, as a new site map makes navigating fast and easy. Just click "Site Index" on the left side of the home page, under the Board seal, for a comprehensive list of links to dozens of valuable informational items and forms.

### Physician Assistant Application Forms

PA applicants can now download and print the application packet from the Board's Web site, rather than waiting for packets to arrive in the mail. This is the first BME application to be offered on-line.

The packet includes the practice description form, which is also used by currently licensed PAs to change their practice descriptions or their supervising physicians. The limited license form is not included, as Board staff need time to process the application and be sure the file is complete before a limited license can be granted.

To access the application packet, go the Board's Web site, click on **Licensure Requirements> Physician Assistant>PA Application Form** (near the bottom of the page). This gives you a list of links to the forms comprising the packet.

The Board is interested in receiving your comments concerning the PA application and practice description forms being on the BME Web site.

### Administrative Rule Updates

If you haven't looked at the Oregon Administrative Rules for your profession lately, you may want to go to the BME Web site, click on **Links>Oregon Administrative Rules>Chapter 847**, and check out the following rules adopted at the July and October 2001 board meetings:

July:

847-005-0005: Adds a \$150.00 fee for the Verification of License Renewal electronic list.

847-008-0020 & 0053: Allows for "timely" notification of Locum Tenens assignments in Oregon rather than a two week notification, and adds additional requirements for the process of restoring a license from revoked status.

847-015-0020: Adds language regarding the DEA requirements for the registration of EMT supervising physicians, and how the drug administration logs are maintained.

continued on page 6

## On-Line Medical Practice

Warren Foote  
Assistant Attorney General

**E**arlier this year, the Board of Medical Examiners received an inquiry from a company proposing to offer certain on-line medical services to Oregon citizens. The firm described itself as a physician-driven health-care delivery system using the Internet to facilitate the diagnosis and treatment of minor ailments.

As this company described its operation, both a patient history and a description of the patient's presenting symptoms would be taken via the Internet, but a physical examination would not be a standard feature of the service provided. As a result, patients with "minor ailments" could receive a diagnosis and advice or prescription medications without ever seeing a physician, although the service could also direct patients to seek emergency care or to obtain in-person medical care.

Although the company in question appeared relatively conservative and planned to provide more safeguards than most Internet medical services offered to the public (some of which exist primarily for the purpose of promoting certain drugs), and although Oregon patients were to receive online advice or prescriptions only from physicians licensed in this state, the Board still had some serious reservations.

The Board of Medical Examiners does not believe that current Internet technology can be used as a substitute for a face-to-face meeting between the patient and physician or for a personal physical examination. In fact, not long before receiving the inquiry under discussion, the Board had imposed

disciplinary sanctions on a physician for prescribing medications for patients based solely upon their completion of an on-line medical questionnaire without the benefit of a face-to-face examination. This physician was found to have engaged in unprofessional conduct and gross or repeated acts of negligence.

The Board does not stand alone in its approach to this issue. The House of Delegates of the Federation of State Medical Boards of the United States has stated as part of its policy the following: "Prescribing of medications by physicians based solely on an electronic medical questionnaire clearly fails to meet an acceptable standard of care and is outside the bounds of professional conduct."

Additionally, in a June 1999 interim report (35-A-99), the Board of Trustees of the American Medical Association found that this kind of Internet prescribing "falls well

below a minimum standard of medical care" for several reasons, including the lack of an examination to determine if there actually is a medical problem and to determine the specific diagnosis. Moreover, licensing boards of other states, including Washington, California, and North Carolina, have disciplined physicians for Internet prescribing.

Proposed and actual Internet medical services raise significant medical and legal issues that are being addressed at the national level as well as by state licensing boards. Although the Internet is a valuable tool, doctors and patients alike need to understand that it cannot serve as a complete substitute for face-to-face physician to patient contact.

*Author Warren Foote of the Department of Justice Business Activities Section serves as legal counsel to the Board of Medical Examiners.*

## Physician Assistant Biennial Registration Begins

**B**iennial registration renewal of physician assistant (PA) licenses will begin when the BME sends out packets at the end of November. PAs must renew their licenses by 5 p.m. on Thursday, January 31, 2002.

PAs who have not received their registration renewal packets by mid-December should phone the Board at 503/229-5873 ext. 450 and request a duplicate registration form.

If you have any questions regarding the renewal process, please phone the Board at 503/229-5770 and ask for the Registration Section.

Please be aware that the data imprinted on the registration renewal form is the information the Board has on record. Please note any changes when you return your form to the Board.

## Chart Review Essential for Physician Assistants

by Dana Gray, PA, Chair, PA Committee

**D**uring several recent investigations involving complaints about physician assistants, the Board was concerned to discover that neither the physician's office, the supervising physician, nor the PA could readily identify charts that had been reviewed by the supervising physician.

Part of the physician assistant practice description required by Oregon law lists chart review as one of the supervising physician's responsibilities. It is

also an important part of the ongoing relationship between the physician and physician assistant in which the PA may always consult with his/her supervising physician about patients.

The Board strongly recommends that the physician-PA team have a systematic means of chart review, and a reliable way to identify the charts that have been reviewed.

### *Chaperones and Communication (continued from page 1)*

*means of a well displayed notice or preferably through a conversation initiated by the intake nurse or the physician. The request by a patient to have a chaperone should be honored.*

The policy goes on to recommend that the chaperone be "an authorized health professional" whenever possible, and that the chaperone be trained for the role and understand the importance of confidentiality. A time for confidential physician-patient discussion without the presence of the chaperone should be arranged, especially for sensitive issues.

The Oregon Medical Association's *Guidelines for Physicians—Sexual Issues*<sup>2</sup> states that chaperones "...are encouraged, but by no means required," but that a request for a chaperone should never be refused. The OMA further states that patients should be asked if they want a chaperone before being asked to disrobe, and recommends that physicians strongly consider using chaperones with the very young, the elderly, those belonging to certain cultural ethnic groups, and those new to the physician.

Under the "Safeguards for the Physician" section of its guidelines, the OMA recommends the use of "draping that would be considered

appropriate by even the most modest patient."

OMA also suggests training staff members to recognize and neutralize potentially compromising situations. The astute nurse or assistant can spot patients who should be provided a chaperone, either for their own comfort or the physician's protection. If the physician feels that the patient is even the least bit uncomfortable, or if the physician feels uncomfortable, a chaperone should be arranged.

While the AMA and OMA policies mentioned above are directed primarily at doctors, not all sexual misconduct complaints coming to the BME involve physicians. The Board cannot overemphasize the need for all licensees—physicians, podiatrists, acupuncturists, and physician assistants alike—to follow these guidelines.

Respecting the patient's dignity and making an effort to provide a considerate atmosphere enhances the quality of any examination. Especially where the examination involves an intimate area of the body, adherence to this policy will go a long way toward reducing the patient's apprehension and embarrassment.

### Communication vital

Carefully explaining the nature of the procedure and how it relates to the complaint helps further reduce both the patient's concerns and the likelihood of a negative reaction to the exam, especially if the patient may not expect it to be part of the evaluation. For instance, the patient being examined by a rheumatologist for bone and joint complaints would not expect a breast examination, and could experience a negative reaction unless the doctor explains that the breasts may contain a cancer leading to osseous metastases.

To summarize, good communication and careful respect for patient dignity will greatly reduce the likelihood that the patient will have an unexpected or anomalous reaction to something the practitioner does during the examination. The net result will be examinations that meet the expectations of both the patient and the practitioner, and that are ultimately more successful.

<sup>1</sup> AMA Policy E-8.21 on "Use of Chaperones During Physical Exams," adopted June 1998, [www.ama-assn.org/ama/pub/category/2503.html](http://www.ama-assn.org/ama/pub/category/2503.html) under Code of Ethics.

<sup>2</sup> *Guidelines for Physicians—Sexual Issues*, [www.ornedassoc.org/pub/guidelinessexual%20issues.pdf](http://www.ornedassoc.org/pub/guidelinessexual%20issues.pdf)



***It's the law! You must notify the BME within 30 days of changing your practice address or mailing address. To help ensure that you receive your license renewals and other important information on time, call the BME for an address change form, or print the form from [www.bme.state.or.us/forms.html](http://www.bme.state.or.us/forms.html).***

## Neuromuscular Blockade and Withdrawing Life Support

**I**n a recent case investigation the Board learned that neuromuscular blockade was used to prevent agonal movements and agonal respiratory effort which might upset family members witnessing the withdrawal of life support. Although the patient had been declared dead before injection of the medication, the Board requested that licensees under its jurisdiction be informed that there is no acceptable reason to administer neuromuscular blockade during removal of life support measures. This is true whether the medication is given before or after the patient is declared dead.

### *New on the Web (continued from page 2)*

847, Division 020 and 030: Divisions 020 and 030, which state the licensing requirements for both US medical graduates and international medical graduates, have been combined into one division.

October:

847-035-0011 & 0012: Adds language on the structure, membership and duties of the Board's EMT Advisory Committee

847-035-0030: Requires a First Responder or EMT to comply with life-sustaining treatment orders executed by either a nurse practitioner or a physician.

847-070-0016: Allows applicants who have not graduated from an acupuncture school/program accredited by the National Certification Commission for Acupuncture and Oriental medicine (NCCAOM) to submit documentation to a foreign credential equivalency service approved by NCCAOM for the purpose of establishing equivalency to the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) accreditation standard.

847-070-0038, 0050 & 0055: Changes the name of the Board's Acupuncture Committee to the Acupuncture Advisory Committee to be consistent with the statutes (ORS 677.780 & .785).