



Approved by the Board on April 7, 2022.

OREGON MEDICAL BOARD
Meeting of the Workgroup on Sexual Misconduct • January 27, 2022 • Held via Videoconference

PUBLIC SESSION

Welcome and Introductions

LOUIE

Dr. Louie, PhD, called the meeting to order at 5:03pm and called the roll.

A quorum was present, consisting of the following members:

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| Erin Cramer, PA-C, Stayton | Chris Poulsen, DO, Eugene |
| Charlotte Lin, MD, Bend | Jill Shaw, DO, Portland |
| Ali Mageehon, PhD, Public Member, Coos Bay | Patti Louie, PhD, Public Member, Portland |
| Chere Pereira, Public Member, Corvallis | |

Staff present:

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| Nicole Krishnaswami, JD, Executive Director | Elizabeth Ross, JD, Legislative & Policy Analyst |
| David Farris, MD, Medical Director | Gretchen Kingham, Executive Assistant |

Chair Louie welcomed meeting participants, discussed ground rules for the Workgroup, provided an overview of the agenda, and invited members of the public to participate by providing comment during the public comment period.

November 17, 2021 Meeting Minutes

LOUIE

The November 17, 2021, meeting minutes were approved at the January 6, 2022, Full Board meeting and were provided as reference material.

Public Comment

LOUIE

Chris Kyle, MD, urologist, noted that nearly all of his patients receive some sort of genital exam. His practice is one of the few practices that serves rural/underserved areas of Southern Oregon and the Oregon Coast. When he travels to these areas, there is one receptionist and one medical assistant, so this rule would dramatically impact their ability to care for patients in these outlying communities. Additionally, Dr. Kyle spoke to staffing shortages, not only in rural areas, but even in his Eugene office. He supports the intent of the Workgroup and understands the importance of the work being done. He hopes the Workgroup can find a balance between patient safety and the ability to provide medical care. Dr. Kyle supports a patient opt-out option.

Daniel Rosenberg, MD, family physician, hopes to find a way to create a balance between providing a safer experience for patients and making a patient feel uncomfortable with additional people in the room, specifically noting adolescents. Dr. Rosenberg also spoke about newborn exams with parents present in the room.

Robert Skinner, MD, Urologist with the Oregon Urological Society, noted they support protecting the patient and the clinician during sensitive exams. He noted that it is difficult to get patients to agree to some of these exams, even with the privacy of just the physician and patient. Dr. Skinner wants to make sure patients are not discouraged from getting sensitive exams by requiring a chaperone and he supports a patient opt-out option. He also spoke about staffing shortages in rural/underserved areas.

Alisa Gifford, PA, OSPA President-Elect, thanked the Workgroup for their work and spoke to ensuring that the rules are equitable to all Oregon citizens.

John M. Barry, MD, Professor of Urology, Professor of Surgery, Division of Abdominal Organ Transplantation, Oregon Health & Science University, attended as a member of the public and prostate cancer survivor to engage in the Board's process of addressing sexual misconduct.

The following members of the public were present, but did not make comment:

- Courtni Dresser, Associate Director of Government Relations, Oregon Medical Association
- Abigail Haberman, MD
- Patient wishing to keep her identity protected
- Nick Haskins, Mahonia Public Affairs, Oregon Society of Physician Assistants
- Taylor Sarman, Mahonia Public Affairs, Oregon Society of Physician Assistants

OAR 847-010-0130: Medical Chaperones

PEREIRA

The Workgroup discussed not making numerous exemptions to the rule, focusing their deliberations on the rule requiring a universal offering of a chaperone during breast, genital, and rectal examinations, no matter the medical specialty. Workgroup members noted the power differential between providers and patients, which is why universally offering chaperones for sensitive exams is so important.

Per section (5) of this draft rule, the patient may decline the presence of a chaperone for breast, genital, and rectal examinations. Workgroup members discussed developing sample opt-out language as a tool for providers. Additionally, per section (6), a licensee is not required under this rule to have a chaperone present in circumstances in which it is likely that failure to examine the patient would result in significant and imminent harm to the patient, such as during a medical emergency.

The Workgroup discussed the need for patients to be informed about their right to have a chaperone present during sensitive examinations or to opt-out of having a chaperone present. It is imperative that patients be informed decisionmakers. Workgroup members further discussed informing the patient about their right to have a chaperone or decline a chaperone in advance of their appointment. The intent is to develop a process that makes every patient truly feel comfortable asking for a chaperone. The Workgroup discussed developing sample language for offering a chaperone, as a tool for providers.

Workgroup members discussed finding a balance between protecting patients and allowing practical means for providers to provide quality care. Perhaps having advance discussion with patients regarding a chaperone could help alleviate burden on providers regarding staffing. The Workgroup took the opportunity to note that the vast majority of providers in the state are good people doing good things.

The Workgroup discussed the gender of chaperones and other possible requests from a patient. Providers should ensure that a patient is comfortable, to the best of their ability, but the goal of this rule is to protect the patient from harm. If a patient is not comfortable, a provider could defer or redirect care. Workgroup members noted that specifically defining “direct observation” could assist in situations regarding patient comfort. In every situation, there must be mutually agreeable informed consent; the patient can decline a chaperone and a provider can decline to perform an exam.

Workgroup members discussed chaperone qualifications, noting that some people may want friends or family members in the room, which is acceptable, but they cannot be the official chaperone. A chaperone must be working in a professional capacity. The Workgroup noted that parents can decline on behalf of their minor children, but a chaperone should still be offered, noting that minors who are 15 years or older are able to consent to medical services without parental consent in Oregon.

The Workgroup discussed newborn exams, noting that some are done in the room, with the parents, and others are performed in the nursery, where there are often nurses present. Workgroup members referred back to discussing chaperones in advance and allowing the patient, parent/guardian in this case, to decline the presence of a chaperone.

Workgroup members discussed chaperone training and the benefits of taking the course presented by Professional Boundaries Institute (PBI), recognizing this may have a staffing and financial impact on providers. The Workgroup also discussed the level of chaperone training Medical Assistants (MAs) receive during their course work. Staff noted that health care providers are mandatory reporters in the Oregon, so they have a heightened responsibility to report wrong doing.

The Workgroup discussed extenuating circumstances that may arise in response to proposed OAR 847-010-0130, noting that the rule cannot address every possibility and situations will be reviewed case by case, if necessary.

Workgroup members discussed delayed care due to proposed OAR 847-010-0130, perhaps in rural areas with limited staffing. Obligating every sensitive exam, every time, to have a chaperone could prevent access to care, but if the rule requires providers to only offer a chaperone, providers should be able to accommodate patients who actually choose to have a chaperone. The Workgroup referred back to discussing chaperones in advance.

The Workgroup discussed that minors who are 15 years or older are able to consent to medical services without parental consent in Oregon. Prior to 15, parents and legal guardians would have the right to accept or decline a chaperone.

Workgroup members support requiring advance notice that a medical chaperone will be offered, but not regulating when or how to do so.

Educational Brochure	SHAW
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Discussion was postponed to a future meeting.

Planning for Future Discussion Topics and Next Meeting Date	LOUIE
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Staff will send a survey to the Workgroup members to schedule the next meeting.

Meeting adjourned at 6:36^{PM}