



Oregon

Kate Brown, Governor

Medical Board

1500 SW 1st Avenue, Suite 620

Portland, OR 97201-5847

(971) 673-2700

FAX (971) 673-2670

www.oregon.gov/omb

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OREGON MEDICAL BOARD

Meeting of the Workgroup on Sexual Misconduct • February 8, 2021

The Oregon Medical Board (“OMB” or “Board”) held a special meeting of the Workgroup on Sexual Misconduct meeting on Monday, February 8, 2021 via teleconference.

Chair Patti Louie, PhD, called the meeting to order at 10:00_{AM}.

A quorum was present, consisting of the following members:

Erin Cramer, PA-C, Stayton	Jill Shaw, DO, Portland
Ali Mageehon, PhD, Public Member, Coos Bay	Patti Louie, PhD, Public Member, Portland
Chere Pereira, Public Member, Corvallis	David Farris, MD, Oregon Medical Board Medical Director

Staff, consultants, and legal counsel present:

Nicole Krishnaswami, JD, Executive Director	Gretchen Kingham, Executive Assistant
Elizabeth Ross, JD, Legislative & Policy Analyst	

PUBLIC SESSION

Welcome and Introductions

LOUIE

Dr. Louie, PhD, allowed Board members and staff to introduce themselves via roll call, discussed ground rules for the meeting, provided an overview of the agenda, and invited members of the public to participate by providing comment during the public comment period.

Review of Workgroup Charter

MAGEEHON

Dr. Mageehon, PhD, reviewed the Workgroup Charter, speaking specifically to membership, objectives, and items outside of the scope.

Overview of Complaint and Investigative Process

PEREIRA

Ms. Pereira gave a brief overview of the complaint and investigative process.

Statutes: ORS 677.188 and 677.190 – Grounds for Discipline

CRAMER

Mr. Cramer provided an overview of the Board's statute, the Medical Practice Act, speaking specifically on the grounds for discipline of licensees.

Rules: OAR 847-010-0073(3)(b)(G) – Sexual Misconduct

PEREIRA

Ms. Pereira presented an overview of unprofessional conduct, as regulated in the OMB's Oregon Administrative Rule.

Statement of Philosophy: Sexual Misconduct

MAGEEHON

Dr. Mageehon, PhD, reviewed the OMB's Sexual Misconduct Statement of Philosophy (SOP), explaining that SOPs are adopted by the Board but are not enforceable regulations. They are meant to communicate the Board's perspective on particular issues and are conversational in nature rather than directive.

Educational Outreach and Publications

SHAW

Dr. Shaw discussed the importance of Educational materials, as they inform the public about the practice of medicine and Medical Board processes.

Public Comment

HARDER

The Board took comments from the public.

Jill Jordan, member of the public, spoke about a possible change in language; Sexual Assault v. Sexual Misconduct. When a doctor is sanctioned, she would like this language in the Board Order.

Ms. Krishnaswami, noted that the Department of Justice advised the OMB that "assault" and "abuse" would imply criminal conduct, and the OMB does not have the authority to suggest criminal conduct. Her suggestion was to use the phrase "sexual misconduct" in Board Orders, rather than "professional misconduct." The Board could begin utilizing this process immediately. Mr. Cramer noted his support of this change, as it allows the Board to be transparent within their capabilities.

Mr. Cramer also spoke to working with other health care licensing Boards in order to approach sexual misconduct in the same manner.

Dr. Shaw noted the importance of raising awareness about Licensee required reporting.

Kalypso (Kali) Leto, member of the public, made no comment.

Iayasha Smith, Matasaru Law, Senior Associate, made no comment.

Planning for Future Discussion Topics and Next Meeting Date

LOUIE

Effectiveness of chaperones (and training programs for chaperones)

- Dr. Louie, PhD, discussed ACOG's recommendation to use a chaperone for all breast, genital, and rectal examinations and noted the FSMB's support for their recommendation. She reviewed the definitions of "chaperone" versus "practice monitor," as noted in the *Report and Recommendations of the FSMB Workgroup on Physician Sexual Misconduct* and discussed the Board's ability to require a practice monitor. She also noted these organizations recommend that a practice monitor have a certain amount of formal training in the role and that they have a clinical background.
- Ms. Krishnaswami explained how the OMB uses these terms:
 - Chaperone is an informal arrangement of observation, typically initiated by physicians themselves.
 - Practice monitor is a formal monitoring arrangement mandated by the Board. There are courses that the OMB requires of a practice monitor if the licensee is mandated to use one.
- Ms. Krishnaswami noted that perhaps the OMB could put something in rule to require a licensee to offer a chaperone, as it is currently only in the Sexual Misconduct Statement of Philosophy.
 - Mr. Cramer and Dr. Shaw felt this would be a practical rule in a clinical setting, noting that many clinicians already work with similar internal policies.
 - Dr. Shaw asked if the rule could mandate that a licensee must offer patients a chaperone and allow patients the right to opt out.
 - Dr. Farris asked if the rule could require a chaperone and allow patients the right to opt out.
 - Dr. Louie's only concern about creating this rule is for very small practices, but believes it a good idea. She also noted that if the rule is written and approved, the Board will need to educate the public that this what they should expect.

Promoting patient counseling resources.

- Not discussed.

Reporting sexual misconduct to law enforcement.

- Not discussed.

Transparency in board orders.

- Briefly discussed during public comment.

The National Practitioner Data Bank (NPDB) continuous query for physician & PA licensees investigated for Sexual misconduct (who retain a license).

- Not discussed.

Dr. Louie, PhD, announced that the next meeting of the Sexual Misconduct Workgroup will be Thursday, March 11th at 2:00pm.

Ms. Krishnaswami reminded members of the public that they may submit written comments directly to OMB staff.

Meeting adjourned at 11:03_{AM}