



Approved by the Board on April 7, 2022.

OREGON MEDICAL BOARD

Meeting of the Workgroup on Sexual Misconduct • March 16, 2022 • Held via Videoconference

PUBLIC SESSION

Welcome and Introductions

LOUIE

Mr. Cramer called the meeting to order at 5:05pm and called the roll.

A quorum was present, consisting of the following members:

Erin Cramer, PA-C, Stayton

Chere Pereira, Public Member, Corvallis

Charlotte Lin, MD, Bend

Chris Poulsen, DO, Eugene

Ali Mageehon, PhD, Public Member, Coos Bay

Jill Shaw, DO, Portland

Patti Louie, PhD, Public Member, Portland, arrived at 5:08pm

Staff present:

Nicole Krishnaswami, JD, Executive Director

Elizabeth Ross, JD, Legislative & Policy Analyst

David Farris, MD, Medical Director

Gretchen Kingham, Executive Assistant

Mr. Cramer 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.

January 27, 2022 Meeting Minutes

LOUIE

There was no discussion regarding the January 27, 2022, meeting minutes.

OAR 847-010-0130: Medical Chaperones

PEREIRA

The Workgroup discussed timing and frequency of offering patients a chaperone. Workgroup members noted that the timing would be left up to providers and recommended that a chaperone be offered at every visit.

Section (2)(b)(A) requires chaperone training for anyone acting as a chaperone who is not a licensed healthcare provider, but Workgroup members questioned this requirement, noting that Medical Assistants can recognize normal exam routines through observation. Additionally, they discussed the time and financial burdens on providers to have staff trained. The Workgroup supports specific chaperone training for anyone not holding a healthcare license.

Section (4) requires that the offer of a chaperone be documented in the patient chart and the Workgroup trusts that is sufficient documentation; a special consent form should not be required.

Workgroup members discussed the Frequently Asked Questions (FAQs) draft document.

Item 5 addresses offering a chaperone if one is already present in the normal course of the examination, and Workgroup members noted it is best practice to document that a chaperone was present, despite not being required to offer one.

Item 14 addresses chaperones that must take a training course, and the Workgroup discussed Medical Assistants and Scribes, noting that both can be very knowledgeable of routine examinations through observation. Scribes would be able to chaperone and document, but perhaps not at the exact same time. It is unclear what exact chaperone training a Medical Assistants may receive during their certification program due to the numerous programs available.

Item 15 addresses trainees serving as a chaperone, and Workgroup members support the use of medical students and residents as chaperones, despite the power differential, as there will often be a power differential between any chaperone and the healthcare provider. They also noted that medical and physician assistant students, who have not completed training and do not hold a healthcare license, would need to be added to the rule if allowed to chaperone. Workgroup members discussed removing item 15 altogether.

Item 17 addresses what is expected when the medical chaperone is observing the examination, and the Workgroup noted that a chaperone is not meant to stand over a provider's shoulder to monitor the exam, but rather be where they can observe the provider performing the exam.

Item 20 addresses virtual visits/telemedicine, and Workgroup members noted that the majority of sensitive exams will not be conducted virtually.

The Workgroup discussed that the rule itself is only a page long, but the FAQs are four pages long and questioned if more information from the FAQs should be added to the rule, noting that only rule language is enforceable. Some Workgroup members questioned if the proposed rule has become inconsequential and is not meeting the initial intent, creating the right for a patient to have a chaperone, due to the large number of required explanations and exceptions. Other Workgroup members believe the rule is meeting the intent.

The Workgroup will bring the rule before the Board for further discussion.

Educational Brochure	SHAW
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The Workgroup discussed that the draft brochure was created to raise patient awareness regarding what to expect during a physical examination and to empower them in the exam room. The brochure content will be updated to reflect the rule, once it has been approved by the Board, and staff will update example lists to note "including but not limited to."

Workgroup members noted that patient education is equally as important as the rule itself and recommended the Board distribute educational materials (electronic or print), possibly in multiple languages, to providers, but not mandate distribution to patients. Board staff will research distributing the material to partner organizations and advocacy groups.

The Workgroup complimented the Oregon Department of Education Sexual Misconduct Reporting Guide and support the Board exploring their own guide.

Christine Boyer, PA, primary care provider, noted that her practice does not employ medical assistants or nurses, so the requirement to offer a chaperone to her patients would be onerous. She also discussed her LGBTQ patients' comfort level with additional people in the room. Ms. Boyer also noted her concern for the use of gender in the rule, FAQs, and brochure. Additionally, she is concerned that this rule may negatively affect access to care.

Anna Bar, MD, president of Oregon Dermatology Society, noted her concern for how this will affect total skin exams. She also supported allowing scribes or medical students to serve as chaperones without specific chaperone training, thus making the requirement less burdensome. Dr. Bar also noted her concern for patient comfort due to the number of people in the room.

David Walls, OPSO, thanked the Workgroup and questioned who must make the offer of the chaperone, as it seems the intent is just that the offer be made, but the rule specifically states that a licensee must offer a chaperone.

The following members of the public were also present for the duration of the meeting, but did not provide oral comments:

- Abigail Haberman, MD
- Alan Hay, MD
- Amber Grasmick-Black
- Chris Kyle, MD
- Courtni Dresser, Vice President of Government Relations, Oregon Medical Association
- Nick Haskins, Mahonia Public Affairs, Oregon Society of Physician Assistants
- Nina Davis, MD
- Robert Skinner, MD
- Taylor Sarman, Mahonia Public Affairs, Oregon Society of Physician Assistants

Planning for Future Discussion Topics and Next Meeting Date

Chair Louie thanked the Workgroup members for the immense amount of time and effort they dedicated to this very important subject, and she thanked the members of the public who participated in the process.

Workgroup recommendations will be presented to the June 8th Administrative Affairs Committee and to the full Board in July.

Meeting adjourned at 6:33_{PM}