



## Frequently Asked Questions

Starting July 1, 2023, an Oregon Medical Board licensee must **offer** a trained chaperone to be physically present for all genital, rectal, and breast examinations, see OAR 847-010-0130.

**Patients have always had the ability to request a chaperone during a clinical encounter, and now OMB licensees will be required to make sure that patients are offered a chaperone to be present during a sensitive exam. The rule was written broadly to allow licensees and organizations flexibility when implementing the new requirement in various practice settings and specialties.**

There are many questions about the rule and its implementation. Please review the information below and submit additional questions to [elizabeth.ross@omb.oregon.gov](mailto:elizabeth.ross@omb.oregon.gov).

### 1. What do medical chaperones provide?

The presence of a trained chaperone in the examination room can provide reassurance to the patient about the professional context and content of the examination and the intent of the provider. The chaperone also serves as a witness to the events taking place should there be any misunderstanding or concern for misconduct. A chaperone is also utilized to help protect and enhance the patient's comfort, safety, security, and dignity during a sensitive exam.

### 2. Why did the Oregon Medical Board (OMB) adopt a rule for offering a medical chaperone?

On recommendation of the Sexual Misconduct Workgroup, the OMB implemented this requirement to offer a medical chaperone due to the evidence of the detrimental effects of sexual misconduct on patients' wellbeing, the patient-provider relationship, and public trust in the medical profession. Routinely offering a chaperone is expected to reduce the risk of sexual misconduct for Oregon patients.

### 3. Does this offer rule apply to all breast, genital, and rectal examinations?

For OMB licensees, the rule requires a universal offering of a medical chaperone during all genital, rectal, and (for patients who identify as female) breast examinations no matter the medical specialty starting July 1, 2023. A sensitive exam includes, but is not limited to, an exam, evaluation, palpation, placement of instruments in genitalia, or exposure of genitalia, rectum, or breast. This includes examinations where there is no physical contact (visual inspection) and examinations that take place inside a hospital. OMB licensees should use their professional judgment to determine when they are performing a sensitive exam as outlined in the OMB rule and offer a chaperone.

The OMB notes the power differential between providers and patients, which is why universally offering chaperones for sensitive exams is so important. The intent is to develop a process that



makes every patient truly feel comfortable asking for a chaperone. The OMB recognizes the balance between protecting patients and allowing practical means for licensees to provide quality care.

#### **4. Who does the OMB rule apply to?**

The rule applies to OMB licensees (MD/DO/DPM physicians, physician assistants, and acupuncturists) performing sensitive exams. See FAQ #26 regarding acupuncturists specifically. The OMB's rule does not apply to sensitive examinations performed by other licensed professionals in Oregon.

#### **5. How is the offer made?**

Patients must be informed about their right to have a chaperone present during sensitive examinations or to opt out of having a chaperone. It is imperative that patients be informed decision makers. There are no exact words that must be used in the offer. The offer may be made in writing or verbally by the licensee or a representative of the licensee prior to the exam. The offer can be made when the exam is scheduled through the period immediately prior to starting the exam. For hospital patients, the offer can be made at time of admission through the period immediately prior to starting the exam. For example, when a provider explains the exam they are about to conduct, they may add the offer of a chaperone as a matter of routine.

The rule allows for a one-time offer or an offer at each encounter; again, it is up to the licensee and/or medical practice. The most important aspect is that patients (or their parents/representative) are made to feel safe and informed of their right to request a chaperone.

The OMB suggests informing the patient about their right to have or decline a chaperone in advance of their appointment. The intent is to alleviate last-minute rescheduling if a chaperone is not available or the licensee does not want to perform the exam without a chaperone. Advance discussion with patients regarding a chaperone could help alleviate the burden on licensees regarding staffing.

The Board understands implementation of the rule requires time and consideration to incorporate the offer of a chaperone within an OMB licensee's practice. The Board also knows the offer will not look the same across all practice settings and specialties. Each licensee may take their own unique approach.

#### **6. Is an offer required if a medical chaperone is already present in the normal course of the examination?**

A licensee is not required to offer a chaperone if a medical chaperone is already present in the normal course of the examination. It would be prudent to have this documented even though a



chaperone is already present in the normal course of the examination. Otherwise, the OMB licensee may not be able to demonstrate a chaperone was present.

### **7. May a patient's medical chaperone preference be stored in the patient's record and not offered each time?**

The patient's preference may be stored in their record as guidance, but the licensee should confirm that the patient's preference has not changed with the passage of time. For example, while the rule allows for a one-time offer (such as for the entire hospital stay or course of treatments), a licensee seeing a patient once a year should re-offer a chaperone annually. However, if the patient's record indicates they prefer to have a medical chaperone, the licensee may plan for a medical chaperone to be present until the patient declines. The most important aspect is that patients (or their parents/guardians) are made to feel safe and informed of their right to request a chaperone.

### **8. How may a patient decline a chaperone?**

The patient may decline the offer either verbally or in writing. See also FAQ #18.

### **9. Can a minor decline or request a chaperone?**

In general, minors who are 15 years or older are able to consent to medical services without parental consent in Oregon. Prior to age 15, parents and legal guardians could accept or decline a chaperone. Minors may be able to accept or decline a chaperone at any age for reproductive health services as outlined in [ORS 109.610 and 109.640\(1\)](#). Please review the Oregon Health Authority's [Understanding Minor Consent and Confidentiality in Health Care in Oregon](#) (also available in [Spanish](#)) for additional information.

### **10. If a patient declines a chaperone, may the licensee defer the examination?**

The licensee may defer an unchaperoned examination for the protection of the patient and the licensee. To avoid last-minute rescheduling and unnecessary delay of the exam, the licensee may ask the patient if they would like a chaperone in advance of their appointment.

### **11. Does the emergency exception provided in OAR 847-010-0130(6) apply to emergency department visits?**

It depends on the urgency of the visit and whether or not a chaperone could reasonably be offered to the patient prior to the exam. OMB licensees should use their professional judgment to determine whether an emergency exists.

### **12. Some patients have a family member or friend with them; can they serve as chaperone?**

Many patients, including pediatric patients, patients with diminished capacity, and patients with varying cultural or language differences, may have a family member or friend with them during exams. However, family members and friends should not be considered chaperones



because they likely lack objectivity and the qualifications to serve as a chaperone. Patients and parents of minors may decline a chaperone, but a chaperone must still be offered.

### **13. Does the rule apply to newborn patients?**

An OMB licensee must offer a medical chaperone for sensitive exams, which if performed by the OMB licensee may include diapering or perineal care. Newborn exams are usually performed alongside the parents, nurses, or other health care professionals. Although a parent may not serve as a chaperone, the parent may decline a chaperone. The rule was written broadly to allow licensees and organizations flexibility when implementing the new requirement in various practice settings and specialties.

### **14. May the patient demand a certain gender of the chaperone?**

Licensees should ensure that a patient is comfortable, to the best of their ability, but the goal of the rule is to protect the patient from harm. If a patient is not comfortable, a licensee could defer or redirect care. In every situation, there must be mutually agreeable informed consent; the patient can decline a chaperone and a licensee can decline to perform an exam.

### **15. Do all chaperones have to take a training course?**

Licensees should ensure that chaperones understand their responsibilities to protect patients' privacy and the confidentiality of health information. No additional training is required if the chaperone holds an active Oregon license to practice or certified by or registered by an Oregon health care board (physician, physician assistant, registered nurse, CNA, LPN, etc.). The rationale is that all licensed health care professionals who believe another licensee engaged in prohibited or unprofessional conduct are required to report the conduct under ORS 676.150. However, any licensed providers may take a chaperone course, but it would not be required for the purposes of the OMB rule.

Medical assistants, certified medical assistants, scribes, and other staff members without a health care professional license or not listed in ORS 676.150 must complete a course for medical chaperones before serving as a chaperone. For purposes of the OMB rule, unlicensed individuals only have to take a chaperone course once but can retake as needed. Organizations may develop their own course or utilize the courses on the [OMB's website](#). See also FAQ #16.

### **16A. How does a medical chaperone course get reviewed?**

Courses should include the training elements of appropriate observational techniques, documentation of encounters, maintaining boundaries in the workplace, draping techniques, the importance of neutrality, reporting requirements, and other components of a chaperone training program.



To request review, entities may send a [request form](#) and course outline or slides including course elements and information such as format (online/in-person), duration of course, instructor information, etc. The form and outline or slides can be emailed to [elizabeth.ross@omb.oregon.gov](mailto:elizabeth.ross@omb.oregon.gov). OMB staff aims to review and respond to requests within 10 business days of receipt.

### **16B. Who maintains documentation of chaperone trainings?**

The OMB will not collect or track chaperone training records for individuals. If there is an allegation that involved the question of whether an appropriate chaperone was provided upon the patient's request, the OMB may ask the OMB licensee for verification or records that the chaperone was either a licensed health care provider or has obtained approved chaperone training.

### **17. Can a trainee serve as a chaperone?**

Use of trainees, medical students, or residents as chaperones generally is only appropriate if they are trained in appropriate clinical practices and empowered to report concerns about how the health care provider conducts the examination. Trainees must meet the requirements in FAQ #15.

### **18. How should a licensee document the presence or absence of a chaperone in the patient chart?**

OAR 847-010-0130 requires the presence or absence of a chaperone must be documented in the patient chart for all breast, genital, and rectal examinations. If a medical chaperone is present, the OMB suggests including the name of the chaperone and credentials (if applicable). If a chaperone is declined, the OMB suggests including information about when the offer was declined, the patient's reason for declining (if available), and the licensee's reasoning for either deferring the examination or proceeding without a chaperone. It is up to the OMB licensee's discretion how specific they want to be and to determine if the OMB licensee or a representative of the licensee will document the presence or absence of a chaperone.

### **19. If a chaperone is requested, how should a medical chaperone observe the examination?**

The medical chaperone must directly observe the licensee's behavior and actions during the examination, but the chaperone does not need to observe the actual examination of the sensitive area. A medical chaperone would *not* meet the requirements of the rule by turning their back during the examination.

### **20. May a medical chaperone also assist the licensee during the examination?**

The medical chaperone may assist the licensee during the examination as long as the tasks do not obstruct or distract the chaperone from observing the licensee's behavior and actions.



**21 I'm concerned some patients won't tell me things they otherwise would if a chaperone is in the room.**

The licensee may provide a separate opportunity for private conversation before or after the exam.

**22. Does the rule apply to virtual visits/telemedicine?**

Even when no physical contact will occur, there may be times that the genital, breast, or rectal area will require virtual examination, and the same standard of care provided to in-person sensitive physical exams is expected.

**23. I have a Board Order requiring a chaperone. Does the rule allow my patients to decline the chaperone?**

If a Board Order requires you to have a chaperone present, you cannot perform the exam without a chaperone.

**24. What about the cost for licensees to offer and provide chaperones? Cost for training unlicensed staff?**

The OMB recognizes that offering and providing chaperones may require some practices to adjust procedures and staffing. There also may be concerns about the time and resources needed to implement changes.

**25. Does the rule apply to procedures?**

For OMB-licensed physicians and PAs, the rule is aimed at sensitive examinations; however, patients may request a chaperone any time. A sensitive exam includes, but is not limited to, an exam, evaluation, palpation, placement of instruments in genitalia, or exposure of genitalia, rectum, or breast. When procedures are performed by physicians and PAs, there is often a medical chaperone already in the room. For the practice of acupuncture see FAQ #26.

**26. Does the rule apply to acupuncturists?**

The rule applies to all OMB licensees. There are instances where an acupuncturist may inspect, touch, or expose sensitive areas, and the OMB's rule to offer a chaperone would apply. However, a patient may request a chaperone in any clinical encounter.

**27. What about extenuating circumstances?**

The OMB understands that limited extenuating circumstances may arise in response to the requirement to offer a medical chaperone. The rule cannot address every possibility and situations will be reviewed case by case, as necessary.



## **28. May an OMB licensee charge a fee for providing a medical chaperone?**

The OMB recognizes that licensees are faced with limited resources in an already overwhelmed health care environment. However, patients must feel welcome to request a chaperone for their own safety and comfort; they must not be discouraged from requesting a chaperone by the imposition of an additional fee.

## **29. When an EMT is employed in a “clinical technician” role, are they exempt from taking the medical chaperone training to serve as a chaperone for an OMB licensee?**

In Oregon, to work under their license, EMS providers must be providing “prehospital care” as defined in ORS 682.025(11). An EMS provider can work as an employee in a hospital or other health care setting and the job description and expectations are set by the employer. This would be working as an unlicensed healthcare personnel and they would need to receive training as a medical chaperone prior to serving in that role for an OMB licensee.

## **30. Does the OMB have patient resources available?**

The OMB developed a [What to Expect During a Physical Exam - Digital Brochure \(Spanish version\)](#) and several chaperone educational posters in several languages for clinics and organizations to voluntarily post. These resources and posters may be used to support the offer of chaperone and inform patients of their right to ask for a chaperone. However, these may not replace the requirement to offer a chaperone. Resources are available [online](#).

## **31. What happens if an OMB licensee accidentally fails to offer a chaperone? Will there be follow up and/or audits after the rule is in effect?**

Oregon Medical Board investigations are complaint-driven; the board does not generally audit or randomly inspect a licensee’s practice. Every case is a fact-specific review with many factors and considerations evaluated. If there was a complaint that included failure to offer a chaperone, it is likely that the Board will take an educational approach as licensees work to implement the rule within their routine practice. However, if this was an ongoing issue and/or other factors jeopardized patient safety, the failure to offer a chaperone under the rule may be a factor considered during the investigation.

**We know there are many questions about the offering a medical chaperone rule and its implementation. Please submit additional questions to [elizabeth.ross@omb.oregon.gov](mailto:elizabeth.ross@omb.oregon.gov).**