



# Oregon

Kate Brown, Governor

**Medical Board**

1500 SW 1<sup>st</sup> Avenue, Suite 620

Portland, OR 97201-5847

(971) 673-2700

FAX (971) 673-2670

[www.oregon.gov/omb](http://www.oregon.gov/omb)



## Proposed Rulemaking Notice **Update**: Medical Chaperones

*Establishing requirements for Oregon Medical Board licensees to use medical chaperones.*

The Oregon Medical Board seeks public comment on a proposed new rule to require board licensees to utilize a medical chaperone for all breast, genital, and rectal examinations performed in outpatient and inpatient settings by January 1, 2023.

### Background

The proposed rulemaking came out the Oregon Medical Board's Workgroup on Sexual Misconduct. The proposed rule adopts the American College of Obstetricians and Gynecologists (ACOG) [recommendation](#) for a chaperone to be present for all breast, genital, and rectal examinations. 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.

The Oregon Medical Board accepted written comments until October 6, 2021, and held a public hearing on August 24, 2021. On October 7, 2021, the Board extended the comment period and reconvened the Sexual Misconduct Workgroup to review comments and make recommendations. The workgroup met November 17, 2021 to start reviewing public comments, information is available on the [workgroup's webpage](#).

**The workgroup will continue working through the public comments and will next meet Thursday, January 27, 2022 at 5 p.m. via videoconference/phone.**

### Sexual Misconduct Workgroup Meeting

**January 27, 2022, 5 p.m.**

The meeting will be held via videoconference/phone and is open to the public to attend. For information on attending or to request accommodation, contact Gretchen Kingham, Executive Assistant, at [gretchen.kingham@omb.oregon.gov](mailto:gretchen.kingham@omb.oregon.gov) or (971) 673-2700.

### Public Written Comments Extended

Please submit additional written comments for review by the workgroup by **Tuesday, January 18, 2022 at 5 p.m.** via email to [elizabeth.ross@omb.oregon.gov](mailto:elizabeth.ross@omb.oregon.gov).

## Proposed Rule

Starting January 1, 2023, the proposed rule requires board licensees to utilize a medical chaperone for all breast, genital, and rectal examinations performed in outpatient and inpatient settings.

Specifically, the proposed rule requires an Oregon Medical Board licensee performing a breast, genital, or rectal examination to:

- Document the presence of the chaperone in the patient chart.
- Allow a patient to decline or “opt-out” of a chaperone, but it should be explained that the chaperone is an integral part of the clinical team whose role includes protecting the patient and the physician.
- If the patient declines, allow the licensee to defer the examination for the protection of the patient and the licensee.
- Ensure the chaperone is not a personal friend or relative of the patient or licensee.
- Utilize trained<sup>1</sup> chaperones, if the chaperone does not hold an active Oregon license to practice a health care profession.
- Ensure that chaperones understand their responsibilities to protect patients’ privacy and the confidentiality of health information.

A licensee is not required 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.

## Fiscal Impact and Implementation

The Oregon Medical Board recognizes that requiring trained chaperones for breast, genital, and rectal examinations may require some practices to adjust staffing procedures. There also may be concerns about the time and resources needed to implement changes and their potential effect on patient care. However, the Board proposes to implement this requirement due to the evidence of the detrimental effects of sexual misconduct on patients’ well-being, the patient–physician relationship, and public trust in the medical profession. There is a need to institute routine chaperoning to reduce the risk of sexual misconduct for Oregon patients. Also, the Board is providing licensees over a year to make the transition to be compliant with the rule.

If you have questions about the rulemaking, please contact [elizabeth.ross@omb.oregon.gov](mailto:elizabeth.ross@omb.oregon.gov).

## Reasonable Accommodation

Reasonable accommodations for people with disabilities are available upon request. In your request, please include a description of the accommodation you will need, including as much detail as possible, and a way the Board staff can contact you if we need more information. Make your request as early as possible; please allow at least five days’ advance notice. Last-minute requests will be accepted but may be impossible to fill. Please contact Gretchen Kingham at [Gretchen.Kingham@omb.oregon.gov](mailto:Gretchen.Kingham@omb.oregon.gov) or call the Board at (971) 673-2700 with your request.

---

<sup>1</sup> Medical Chaperone courses are usually about 2 hours at a cost of \$20-\$79, for example see Medical Chaperone Training Program offer by [PBI Education](#).



## **Proposed Rule Draft**

### **847-010-0130**

#### **Medical Chaperones**

- (1) As of January 1, 2023, a licensee must have a trained chaperone physically present for all breast, genital, and rectal examinations.
- (2) The licensee must ensure that the chaperone:
  - (a) Is not a personal friend or relative of the patient or licensee; and
  - (b)(A) Holds an active Oregon license to practice a health care profession; or
  - (B) Completes a course for medical chaperones approved by the Oregon Medical Board.
- (3) During a breast, genital, or rectal examination, the chaperone may not participate in acts that would obstruct or distract the chaperone from observing the licensee's behavior and actions throughout the exam, procedure, or clinical encounter.
- (4) The presence of the chaperone must be documented in the patient chart.
- (5) The patient may decline the presence of a chaperone for a breast, genital, and rectal examination. If the patient declines, the licensee:
  - (a) Must document the decision in the medical record.
  - (b) May defer the breast, genital, or rectal examination for the protection of the patient and the licensee.
  - (c) May perform an unchaperoned examination with the rationale documented in the medical record.
- (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.

Statutory/Other Authority: ORS 677.265

Statutes/Other Implemented: ORS 677.265