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Title: Chaperone Use During Sensitive Exams

Introduced by: Mara Bezerko for the Medical Student Section

Original Authors: Mara Bezerko, Emma Frost, Kaitlin Herdman, Jennifer Jess, Jordan Lippincott, and Sara Teising

Referred to: Reference Committee B

House Action: **APPROVED**

Whereas, according to the American Medical Association Code of Medical Ethics, "A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient<sup>1</sup>, and

Whereas, between January 1, 2003, to September 30, 2013, a total of 1039 physicians had one or more sexual misconduct related reports submitted to the National Practitioner Data Bank<sup>2</sup>, and

Whereas, a study of 101 cases of sexual violations in medicine found that 85 percent of these occurred in settings where physicians always examined patients alone and the physicians who engage in sexual misconduct with patients are often recidivists<sup>3</sup>, and

Whereas, studies indicate that fewer than one in 10 victims of sexual violations by physicians choose to report sexual misconduct<sup>4</sup>, and

Whereas, as of January 2019, over 500 survivors have bravely come forward with allegations against Larry Nassar, DO<sup>5</sup>, and

Whereas, Michigan State University's historic 2018 settlement recognized 332 survivors of Larry Nassar's sexual misconduct<sup>6</sup>, and

Whereas, William Strampel, DO, Dean of the Michigan State University College of Osteopathic Medicine, willfully neglected and failed to enforce protocols upon Larry Nassar, including attendance by another employee in the examination room with Nassar during patient examinations and procedures<sup>7</sup>, and

Whereas, chaperones present during a sensitive exam can increase patient comfort and create a safe environment for both the patient and the physician. Chaperones can prevent an environment that would foster misconduct, serve as witnesses, and report sexual misconduct to prevent further unreported behaviors<sup>8</sup>, and

Whereas, ethical recommendations on the offering of chaperones by the Michigan State Medical Society, American Medical Association, American Academy of Pediatrics, and American College of Obstetrics and Gynecology directed to individual physicians; thereby, leaving the patient vulnerable to physicians who do not comply with these ethical obligations, and without a standardized mechanism to understand her or his right as a patient<sup>9,10,11,12</sup>, and

Whereas, one study showed that only 13 percent of male residents and 18 percent of female residents primarily used a chaperone for the sake of patient comfort and this use was dependent upon such variables as resident gender, patient attractiveness, patient marital status, and patient history of abuse<sup>13</sup>, and

53           Whereas, seven states (Alabama, Delaware, Georgia, Montana, New Jersey, Ohio, and Tennessee)  
54 believed this issue necessitated the passage of laws mandating chaperone use in certain examination  
55 settings<sup>14</sup>, and  
56

57           Whereas, the United Kingdom’s General Medical Council, which sets ethical guidelines for the  
58 National Health Services, mandated the offering of a chaperone to patients in 2013<sup>15</sup>, and  
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60           Whereas, according to the General Medical Council, the chaperone should be an authorized member  
61 of the health care team who is familiar with the procedures involved in a routine intimate examination. This  
62 allows the chaperone to serve as a witness to the events occurring in the examination room. The medical  
63 chaperone acts as mandatory reporter with a responsibility to report offending colleagues to disciplinary  
64 boards<sup>15</sup>, and  
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66           Whereas, the General Medical Council guidelines indicate that the medical record should reflect the  
67 name of the chaperone, or that the use of a chaperone was declined<sup>15</sup>; therefore be it  
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69           RESOLVED: That MSMS amend existing policy, “Chaperones in Exam Rooms”, by addition and  
70 deletion as follows:  
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72           MSMS **supports requiring physicians to offer** encourages the use of chaperones in exam rooms  
73 during **all non-emergent intimate (breast, pelvic, testicular, and rectal)** examinations which could result  
74 in sexual misconduct ~~allegations~~ in order to provide comfort **and protection** to the patient ~~and to protect~~  
75 ~~against such allegations.~~  
76

77           RESOLVED: That MSMS advocate for legislation requiring physicians to offer the use of a chaperone  
78 during all non-emergent intimate (breast, pelvic, testicular, and rectal) examinations which could result in  
79 sexual misconduct in order to protect the patient; and be it further  
80

81           RESOLVED: That MSMS encourage the posting of signage stating the right of patients and/or their  
82 parents or legal guardians, if applicable, to request a chaperone in exam rooms where sensitive exams may  
83 be performed.  
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86 WAYS AND MEANS COMMITTEE FISCAL NOTE: \$30,000 or more as this resolution requires legislative  
87 advocacy and a messaging campaign.

**Relevant MSMS Policy:**

Chaperones in Exam Rooms

MSMS encourages the use of chaperones in exam rooms during examinations which could result in sexual misconduct allegations in order to provide comfort to the patient and to protect against such allegations. (Board Action Report #6, 1999 HOD, re Res83-98A)

**Relevant AMA Policy:**

1.2.4 Use of Chaperones

Efforts to provide a comfortable and considerate atmosphere for the patient and the physician are part of respecting patients’ dignity. These efforts may include providing appropriate gowns, private facilities for undressing, sensitive use of draping, and clearly explaining various components of the physical examination. They also include having chaperones available. Having chaperones present can also help prevent misunderstandings between patient and physician.

Physicians should:

- (a) Adopt a policy that patients are free to request a chaperone and ensure that the policy is communicated to patients.
- (b) Always honor a patient’s request to have a chaperone.

- (c) Have an authorized member of the health care team serve as a chaperone. Physicians should establish clear expectations that chaperones will uphold professional standards of privacy and confidentiality.
- (d) In general, use a chaperone even when a patient's trusted companion is present.
- (e) Provide opportunity for private conversation with the patient without the chaperone present. Physicians should minimize inquiries or history taking of a sensitive nature during a chaperoned examination.

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<sup>1</sup> AMA Code of Medical Ethics. AMA Principles of Medical Ethics. 2001.

<sup>2</sup> AbuDagga, A., Wolfe, SM., Carome, M., and Oshel, RE. Cross-Sectional Analysis of the 1039 US Physicians Reported to the National Practitioner Data Bank for Sexual Misconduct, 2003-2013. *PLoS One*. 2016; 11(2): e0147800.

<sup>3</sup> DeBois, J. M., Walsh, H. A., Cibnall, J. T., Anderson, E. E., Eggers, M. R., Fowose, M., & Ziobrowski, H. (2017, June 19). Sexual Violation of Patients by Physicians: A Mixed-Methods, Exploratory Analysis of 101 Cases. Retrieved February 24, 2019, from <https://journals.sagepub.com/doi/full/10.1177/1079063217712217>

<sup>4</sup> Pimienta, A. L., & Giblon, R. E. (2018, October 01). The Case for Medical Chaperones. Retrieved February 24, 2019, from <https://www.aafp.org/fpm/2018/0900/p6.html#fpm20180900p6-b10>

<sup>5</sup> Shaffer, C. (2018, October 19). Number of Nassar accusers approaches 500. Retrieved February 24, 2019, from <http://www.michiganradio.org/post/number-nassar-accusers-approaches-500>

<sup>6</sup> Guerrant, E. (2018, May 16). Larry Nassar Survivors and Michigan State University announce they have successfully resolved existing litigation and agreed in principle to a \$500 million global settlement. Retrieved February 24, 2019, from <https://msutoday.msu.edu/news/2018/larry-nassar-survivors-and-michigan-state-university-announce-they-have-successfully-resolved-e/>

<sup>7</sup> Signed Strampel Affidavit. (2018, March 27). Retrieved February 24, 2019, from [https://www.michigan.gov/documents/ag/SIGNED-Strampel\\_Arrest\\_Affidavit\\_-\\_FINAL\\_D8\\_\\_003\\_005\\_618465\\_7.pdf](https://www.michigan.gov/documents/ag/SIGNED-Strampel_Arrest_Affidavit_-_FINAL_D8__003_005_618465_7.pdf)

<sup>8</sup> The Use of Chaperones During Sensitive Examinations and Procedures. (n.d.). Retrieved February 24, 2019, from <https://www.uofmhealth.org/patient-visitor-guide/patients/use-chaperones-during-sensitive-examinations-and-procedures>.

<sup>9</sup> Policy Manual 2018 Edition: Official policies of the Michigan State Medical Society. (2018). Retrieved February 24, 2019, from [https://www.msms.org/Portals/0/Documents/MSMS/About\\_MSMS/2018\\_MSMS\\_Policy\\_Manual.pdf?ver=2018-12-11-112410-523](https://www.msms.org/Portals/0/Documents/MSMS/About_MSMS/2018_MSMS_Policy_Manual.pdf?ver=2018-12-11-112410-523)

<sup>10</sup> Use of Chaperones. (n.d.). Retrieved February 24, 2019, from <https://www.ama-assn.org/delivering-care/ethics/use-chaperones>

<sup>11</sup> Policy Statement "Use of Chaperones During the Physical Examination of the Pediatric Patient." (2011, April 25). Retrieved from <http://pediatrics.aappublications.org/content/pediatrics/127/5/991.full.pdf>

<sup>12</sup> Sexual Misconduct. (2007, August). Retrieved February 24, 2019, from <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Ethics/Sexual-Misconduct>

<sup>13</sup> Ehrental, D. B., MD, Farber, N. J., MD, Collier, V. U., MD, & Aboff, B. M. (2000, August 15). Chaperone Use by Residents During Pelvic, Breast, Testicular, and Rectal Exams. Retrieved February 24, 2019, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1495582/>

<sup>14</sup> Kay, A. (2015, April 2). Policy Review and Analysis of Chaperoning Intimate Medical Examinations Legal Mandates. Retrieved February 24, 2019, from [https://jdc.jefferson.edu/mpchapstone\\_presentation/135/](https://jdc.jefferson.edu/mpchapstone_presentation/135/)

<sup>15</sup> Intimate examinations and chaperones. (2013, April 22). Retrieved February 24, 2019, from <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/intimate-examinations-and-chaperones/intimate-examinations-and-chaperones>