



## 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.

We know 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.

### 2. Why is the Oregon Medical Board (OMB) proposing this rule?

On recommendation of the Sexual Misconduct Workgroup, the OMB is implementing this requirement 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. There is a need to institute routine offerings of a chaperone to reduce the risk of sexual misconduct for Oregon patients.

### 3. Does this 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 breast examinations (for patients who identify as female), no matter the medical specialty starting July 1, 2023. This includes examinations where there is no physical contact and examinations that take place inside a hospital. 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 and physician assistants) performing sensitive exams. See FAQ #26 regarding acupuncturists. 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.

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.

### **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.

### **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 should always be offered prior to each examination, except as described in FAQ #6. However, if the patient's record indicates they request a medical chaperone, subsequent offers are not required and a provider may assume a medical chaperone has been requested until the patient declines.

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

The patient should actively decline the offer either verbally or in writing. The licensee should explain that the chaperone is an integral part of the clinical team whose role includes protecting both the patient and the licensee. If the patient does not respond to an offer, the OMB suggests that a chaperone be present, at least until a patient actively declines the chaperone.

### **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 outlined in [ORS 109.610 and 109.640\(1\)](#). Please review [OHA's Minor Rights: Access and Consent to Health Care](#) 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. However as noted earlier, the OMB suggests informing the patient in advance of their appointment to alleviate last-minute rescheduling and unnecessary delay of the exam. It may be reasonable to refer the patient to another provider.

### **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.

### **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 in the room with the parents or in the nursery where nurses are often present. Although a parent may not serve as a chaperone, the parent may decline the offer of a chaperone for a newborn exam.

### **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 a health care profession (physician, physician assistant, registered nurse, etc.). If the chaperone does not hold a health care professional license, the chaperone must complete a course for medical chaperones approved by the Oregon Medical Board. As an example, the [PBI Education](#) offers a two-hour online course.



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

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 approval, entities may send a letter to the OMB outlining the course's elements and information such as format online/in-person, duration of course, instructor information, etc. The letter 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.

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

Use of trainees, medical students, or residents as chaperones generally is discouraged unless they are trained in appropriate clinical practices and empowered to report concerns about how the health care provider conducts the examination.

### **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.

### **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. A medical chaperone would not meet the requirements of the rule by turning their back during the examination, but may be positioned in a way where they can see the patient and how the examination is being conducted that is comfortable and respectful to the patient.

### **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.**

If a chaperone is present, the OMB suggests the licensee 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?**

The rule is aimed at examinations and not procedures; however, in any situation a patient is entitled to request a chaperone be present should they want one.

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

The rule applies to all OMB licensees. However, breast, genital, and rectal exams are in most circumstances, outside of the scope of practice for acupuncturists.

**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.

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