Whereas, Estimates indicate that almost 11 percent of provider misconduct reports are sexual in nature; and

Whereas, Rigorous published studies conclude that we lack sufficient information on malpractice to accurately establish the rates and types of physician misconduct; and

Whereas, Medical chaperones are third parties who accompany patients during medical examinations; and

Whereas, The presence of medical chaperones is a common practice during sensitive exams for patients; and

Whereas, Physicians can be reported for alleged misconduct that never occurred, but is difficult to disprove without witnesses; and

Whereas, University of Michigan policy states that “A chaperone’s presence may also provide protection to health professionals against unfounded allegations of improper behavior, and a health professional should be able request a chaperone for any examination or procedure”; and

Whereas, A study investigating whether medical chaperones affect patient satisfaction found that 61% of adolescent patients preferred to be offered a chaperone; and

Whereas, American College of Obstetricians and Gynecologists (ACOG) recommends, in part, accommodating patient requests for a chaperone, regardless of the physician’s gender; and

Whereas, The American College of Physicians Ethics Manual states that “in general, the more intimate the examination, the more the physician is encouraged to offer the presence of a chaperone”; and

Whereas, Pediatric patients, disabled patients, patients with judgement-altering health conditions, patients who lack the capacity to give informed consent, and patients who are otherwise unable to protect themself from abuse, neglect or exploitation are vulnerable to potential misconduct and may be unable to request a chaperone; and

Whereas, Some institutions require formally trained chaperones, including in 7 states which have implemented legal mandates for the presence of medical chaperones during sensitive physical exams; and
Whereas, Patients may not want an extra person present for sensitive examinations due to the private nature of such examinations, and thus an opt-in/opt-out policy is preferable to a fully mandated policy14; and

Whereas, Documentation of patient interactions has been shown to decrease rates of litigation ruled against providers15; and

Whereas, Patients may be uncomfortable requesting a chaperone when the provider asks themselves due to intimidation or fear of undermining the trust in the patient-provider relationship, and a study found that 54% of patients preferred to have the nurse ask about chaperone preference rather than the physician5; and

Whereas, Chaperones may feel uncertain or concerned about intervening during an inappropriate exam or reporting potential misconduct, especially if they are hierarchically inferior to the provider, demonstrating the need to educate chaperones on proper conduct13; and

Whereas, AMA policy states says any authorized member of the health care team can serve as a medical chaperone as long as there are clear expectations to uphold professional standards of privacy and confidentiality, failing to address potential discomfort a chaperone may have in reporting egregious behavior during exams; and

Whereas, There have been instances of litigation when patient declined a chaperone during an exam16; and

Whereas, Physicians may feel uncomfortable performing sensitive exams on patients without a chaperone due to fear of litigation or discomfort with patient conduct during an exam; and

Whereas, American Association of Family Physicians Policy suggests that providers should not allow the process of ensuring that an exam is chaperoned to interfere with appropriate and timely patient care and clinical judgment; and

Whereas, AMA and ACOG policy have extensive protection guidelines for patients, but do not include guidelines to protect physicians17; therefore be it

RESOLVED, That our American Medical Association ask the Council on Ethical and Judicial Affairs to consider amending E-1.2.4, “Use of Chaperones in Code of Medical Ethics,” to ensure that it is most in line with the current best practices and potentially considers the following topics: a) opt-out chaperones for breast, genital, and rectal exams; b) documentation surrounding the use or not-use of chaperones; c) use of chaperones for patients without capacity; d) asking patients’ consent regarding the gender of the chaperons and attempting to accommodate that preference as able. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 10/12/22
References:

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.

AMA Principles of Medical Ethics: I,IV

The Opinions in this chapter are offered as ethics guidance for physicians and are not intended to establish standards of clinical practice or rules of law.

Issued: 2016