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# Risk Matters: Chaperones

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There are often many questions regarding the use of a chaperone such as who, when, why, what (if the patient refuses/is the chaperone's role) and how often? This article will attempt to answer these questions by examining the recommendations of SVMIC and the AMA. In the current environment, it is important that the provider understand the multiple purposes a chaperone serves as well as the need for gender identification when selecting the appropriate chaperone.

The use of chaperones during physical examinations has three benefits:

- it provides reassurance to patients of the professional character of the exam
- a witness is available to support the physician's innocence should a misunderstanding or false accusation be made by the patient
- it offers advantages in convenience and time efficiency when authorized health professionals serve as chaperones and can assist with procedures such as gynecologic examinations.

Taking steps to help a patient feel comfortable during a physical examination is helpful in building a solid and trusting relationship. It also allows the patient to assume ownership of his/her/their care. Equally important is providing the patient with information about the various types of examinations and the details of what to expect, which can alleviate anxiety and help prevent a misunderstanding as to the appropriateness of certain actions during the examination. Having this discussion may also increase the patient's comfort with the presence of a chaperone. Likewise, the chaperone must understand the purpose for being in the room during the examination and stand at a vantage point that would prevent later claims that he/she could not view what the provider was doing.

Historically, chaperones were offered when patients were of the opposite sex of the provider and most often when a male provider was performing a sensitive examination on a female patient. But that is no longer the case. Today, consideration must be given to the sexual orientation/identification of the patient and whether he/she/they are/have transitioned. The easiest way to avoid confusion is to ask the patient whether he/she/they would prefer a chaperone who is male or female?

The risks to the provider who chooses not to have a chaperone during a sensitive examination are significant. Providers can potentially face medical malpractice claims, assault/battery claims, and disciplinary actions by State Boards. Very often these types of salacious allegations "make the news" and can be detrimental to a provider's reputation even if the provider successfully prevails against the allegations. With no chaperone to

support the provider, it becomes a “he said/she said” battle.

To evaluate the need for a chaperone, the Council on Ethical and Judicial Affairs (CEJA Report 10-A98), American Medical Association (AMA) suggests weighing the following considerations:

- The perceived intimate nature of the exam: “A sense of invasiveness towards different features of the physical exam can vary among individual patients. However, there is a general consensus that an examination of reproductive organs (i.e., a pelvic, testicular, or breast exam) or an examination of the rectum heightens the importance of a chaperone.”
- The nature of the physician/patient relationship: “For a new visit or first-time examination, patients should be apprised of the availability of chaperones. Custom has dictated that chaperones are most commonly offered to patients of the opposite sex, and more frequently to female patients of male physicians. Whatever the social custom, it is important that patients from all demographic categories feel comfortable requesting a chaperone.”
- The preferred type of chaperone: “Whenever possible, authorized health professionals should serve as chaperones rather than office clerks or family members. Unless specifically requested by the patient, family members should not be used as chaperones. Health professionals are held to standards for safeguarding patient privacy and confidentiality. Furthermore, their status affirms the formal nature of the examination.”

The Council recommends the following guidelines:

- From the standpoint of ethics and prudence, the protocol of having chaperones available on a consistent basis for patient examinations is recommended. A policy that patients are free to make a request for a chaperone should be established in each health care setting. This policy should be communicated to patients, either by means of a prominent notice or preferably through a conversation initiated by the intake nurse of the physician. The request by a patient to have a chaperone should be honored.
- An authorized health professional should serve as a chaperone whenever possible. Physicians should establish clear rules in their practices about respecting patient privacy and confidentiality to which all chaperones must adhere.
- If a chaperone is to be provided, a separate opportunity for private conversation between the patient and the physician should also be arranged. The physician should keep inquiries and history taking, especially those of a sensitive nature, to a minimum during the course of the chaperoned examination.<sup>[1]</sup>

**With these considerations in mind, SVMIC recommends:**

1. Chaperones should be offered prior to all exams of an intimate and/or sensitive nature including, but not limited to pelvic/genital, genitourinary, rectal, and female breast examinations no matter the identified gender of the provider or patient. (Note:

this list is not all-inclusive.)

2. A patient has the right to request a chaperone at any time throughout a consultation and examination, and to the extent possible, the patient's request must be honored.
3. A chaperone should be present even if the patient has a trusted companion or family member present as the secondary purpose of the chaperone is to protect the provider.
4. Special considerations for a chaperone may include: patients with severe anxiety, religious/cultural needs, communication obstacles, sexual identification/orientation, or memory deficits.
5. Each patient should be asked if he/she/they prefer a male or female chaperone assuming that the provider has both male and female staff members available. If not, this should be explained to the patient and permission to proceed with a specific gender chaperone should be obtained from the patient with documented consent.
6. Chaperone documentation in the patient's medical record should include the chaperone's name, title, and the portion of the examination for which the chaperone was present.
7. The chaperone should be a professional who understands his/her role and stands in a position that allows full view of the provider's activities.
8. In rare emergent/urgent circumstances, an appropriate chaperone may not be immediately available. In those unique situations:
  - a. The provider may need to proceed with the examination without an appropriate chaperone present based upon the clinical history, presentation, and risk to the patient of not performing the exam at the immediate time. The patient must agree to continue the examination without a chaperone. The provider should thoroughly document in the medical record the lack of a chaperone along with the rationale for proceeding without a chaperone present and the patient's consent to do so or;
  - b. After being fully informed of the risks, the patient may elect to decline the examination and reschedule the appointment. The provider shall thoroughly document in the patient's medical record the informed consent discussion including the risks and the examination delay due to unavailability of an appropriate chaperone.  
Either of these options is less than ideal and presents substantial risk to the provider.
9. If the patient declines a chaperone, the discussion and refusal should likewise be thoroughly documented.
10. Each practice should have a policy on chaperones that is consistently followed by all providers.

When in doubt, err on the side of caution and have an appropriate chaperone present. If there are any questions or concerns regarding the use of a chaperone, providers are strongly encouraged to contact an SVMIC Claims Attorney to discuss the specific situation.

[1] AMA CEJA Report 10-A98 Use of Chaperones During Physical Exams.

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