

Intimate Examinations and Chaperones

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12.1 Background

It is every clinician's duty to provide a good standard of care when assessing, diagnosing and treating patients. As part of this duty we are sometimes obliged to conduct intimate examinations. These include examination of breasts, genitalia and rectum, but for some patients other close contact may also be regarded as intimate. Intimate examinations can be embarrassing and distressing for patients and we are obliged as a result to respect their dignity and privacy [1, 2].

A chaperone is an independent person, appropriately trained, whose role is to observe the examination/procedure undertaken by the doctor/health professional to assist in maintaining the appropriate doctor–patient relationship.

When an intimate examination is to be conducted, the patient should be offered the option of having a chaperone present. This applies irrespective of the genders of the doctor and patient. A chaperone should fulfill the following criteria:

- Usually be a health professional (do not have to be medically trained)
- Be sensitive and respect the patient's dignity and confidentiality

- Reassure the patient if they demonstrate signs of distress/discomfort
- Familiarise themselves with what the procedure involves
- Be present for the duration of the examination and be able to see what the doctor is doing (where practical)
- Be willing to raise concerns if necessary

In addition to intimate examinations, other situations where a chaperone may be beneficial are as follows:

- Anxious or vulnerable patients
- Patients with whom there may have been a misunderstanding or difference of recollection of events in the past
- Patients reviewed by trainee doctors or students
- Where religious or cultural issues which may affect the physical examination

Having a chaperone present has several advantages, including:

- Provides assistance to the health professional in the examination including passing instruments when required
- Provides emotional comfort and reassurance to the patient
- Acknowledges a patient's vulnerabilities and ensures the patient's dignity is preserved.

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- Add a layer of protection for the doctor: it would be rare for an allegation of impropriety be made when a chaperone was present.

In order to avoid litigation in this area, the GMC has provided clear guidance for practising clinicians, and it is important that clinicians follow these principles carefully.

12.2 Minimal Standards and Clinical Governance Issues

Before performing any intimate examination, explain why it is required and the nature of the examination to allay any fears. The patient should be given the opportunity to ask questions. It is important to explain what the examination involves, including the fact that it may cause pain or discomfort. The patient should have a clear idea of what to expect before starting.

The patient's permission to proceed should be obtained and documented in the notes. Patients should be offered a chaperone for all intimate examinations. A relative or a friend is not a suitable chaperone, but where the patient requests the presence of a friend or relative they may be present in addition to a chaperone. The chaperone's identity should be recorded in the medical notes.

To ensure a patient's dignity, she should be allowed to undress herself in a private room, she should be provided with a cover and she should not be helped to undress, unless she specifically asks for assistance. If the examination is obviously too uncomfortable or if the patient asks for the examination to be stopped it must be ceased immediately. No personal comments should be made during the examination. All discussions during the examination should be relevant.

Where a chaperone is not available (home visits or in the out of hours setting) it is important to consider the clinical urgency of the examination. The examination can be postponed to a later date as long as there is no adverse impact on the patient's clinical needs.

If the patient refuses a chaperone a clear explanation should be given why a chaperone is required and this fact recorded in the medical records. When a patient continues to refuse a chaperone, it is at the discretion of the doctor whether or not to proceed and will be a decision based on both clinical need and the requirement for protection against any potential allegations of an unconsented examination/improper conduct. It is imperative to document that a chaperone was offered and declined.

As the treating doctor if you are unwilling to proceed consideration should be given to referring the patient to another doctor/colleague. This may be a doctor of the same gender as the patient if this is the basis for refusing the examination. Any delay should not adversely affect the patient's health.

There is a duty to report any inappropriate sexual behaviour of a colleague with a patient (Sexual behaviour and your duty to report colleagues (2013)).

Where an intimate examination is required on an anaesthetised patient or when supervised students wish to carry out such an examination, written patient consent should be obtained in advance.

Where the examination involves a child or young person, their capacity to consent should be assessed and where this is lacking, permission from the parents should be obtained. At 16 a young person should be presumed to have the capacity to consent.

There may be exceptions to when a chaperone is not required, i.e., in an emergency, when the patient's clinical needs must be the priority.

12.3 Reasons for Litigation

The main reasons for litigation are patient complaints and allegations of inappropriate sexual behaviour or sexually motivated intimate examinations, usually because there is an absence of a chaperone. It should be remembered that there is a duty to report any inappropriate sexual behaviour of a colleague with a patient [3].

Where an allegation of sexual misconduct has been made the local police force is duty bound to investigate. Such investigations may result in a criminal case being brought against the doctor. Because of the seriousness of the offences that are likely to have been alleged the trial will normally take place in the Crown Court in front of a panel of 12 jury members and one Judge. In most cases the doctor's defence organisation will provide a defence.

12.4 Avoidance of Litigation

It is important that the above guidance from the GMC is followed and to maintain professional boundaries between patient and doctor [4]. In addition to offering patients a chaperone, the doctor must be competent in performing the relevant examination and must be clear that it will help the diagnosis.

12.5 Case Study

A 25-year-old woman had a vulval abscess that was treated by incision and drainage at the local hospital. She was followed up by her General Practitioner, who performed examinations of the vulva and vagina on three separate occasions, 1 week apart. At each of these examinations a chaperone was not present. As the abscess resolved, the patient alleged that the examinations became more sexually motivated, as each examination became more prolonged and the last examination allegedly involved stimulation of the clitoris. In a criminal court hearing the doctor was cross-examined and eventually acquitted as he was able to convince the court that a chaperone was offered at each visit but refused by the patient. However, the doctor had failed to record these offers in the medical records and despite his acquittal his case was referred to the General Medical Council for further investigation into his Fitness to Practice.

Key Points: Intimate Examinations and Chaperones

- Chaperones should be used wherever possible, for the protection of both the patient and doctor and patients should be offered a chaperone for all intimate examinations.
- Ensure training for all chaperones.
- Although it is not mandatory for a chaperone to be present, the presence of a chaperone decreases the risk of an allegation of inappropriate behaviour.
- If a patient refuses to have a chaperone, the doctor can refer to a colleague.
- If the doctor continues with the examination without a chaperone, the offer of a chaperone and the reasons for continuing with the examination should be clearly documented in the medical records.
- Be sensitive to a patient's ethnic/religious and cultural background. The patient may have a cultural dislike to being touched by a person of another sex or undressing in front of such a person.

References

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3. General Medical Council (GMC). Sexual behaviour and your duty to report colleagues. London. 2013. http://www.gmc-uk.org/static/documents/content/Maintaining_boundaries_Sexual_behaviour_and_your_duty_to_report_colleagues.pdf.
4. General Medical Council (GMC). Maintaining a professional boundary between you and your patient. London. 2013. http://www.gmc-uk.org/static/documents/content/Maintaining_a_professional_boundary_between_you_and_your_patient.pdf.