RACGP Standards for general practices (5th edition) fact sheet

The use of chaperones and observers in general practice

Standards requirements for the presence of a third party during a consultation

The RACGP *Standards for general practices* (5th edition) (the Standards) address the presence of a third party during a consultation at *Criterion C2.2 Indicator A*:

> C2.2►A Our practice obtains and documents the prior consent of a patient when the practice introduces a third party to the consultation.

The explanatory notes at this Criterion set out a number of key points, including seeking prior patient consent for the presence of a third party or chaperone, as well as documenting the consent process within a patient's health record. Specifically concerning chaperones and observers, the Standards state:

> *In a general practice setting, there are a number of situations where a practitioner or a patient may wish, or need, to have a chaperone present during a consultation. The practice must clearly document the presence of a chaperone. If the practitioner requests the presence of a third party for this purpose, they must obtain and document prior consent from the patient. Details of the chaperone must be recorded so that they can be subsequently identified if required. If the patient declines the offer of a chaperone, it is a good idea to document this.*

The purpose of this fact sheet is to provide further detail and clarification around the use of chaperones and observers in general practice.

What is a chaperone?

The Standards define a chaperone as an observer to a consultation between a practitioner and a patient.

A chaperone is required, either because:

- they are requested as an observer by the practitioner or patient (a requested chaperone or observer may or may not be impartial) (*refer to Offering and requesting a chaperone or observer*)
- their presence is mandated as a condition of the practitioner's medical registration (a mandated chaperone must be impartial) (*refer to Mandated chaperones*).

Whether the presence of a chaperone is requested or mandated, when used, a chaperone is required to be physically present and directly observe all contact between the practitioner and patient/patient group they are providing care to.

Chaperones and observers are commonly present (or requested to be present) for inherently intimate aspects of clinical practice (refer to next section). The use of a chaperone does not necessarily suggest there are any issues with or between the practitioner and patient.

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The use of a chaperone can be considered a risk management strategy and may assist in protecting:

- the patient from feelings of discomfort or distress
- the practitioner from feelings of discomfort
- the practitioner's actions from being misconstrued
- both the patient and the practitioner from allegations of inappropriate behaviour and misconduct.

Practitioners must take into account any cultural considerations and the medical and social history of the patient, and avoid any assumptions about a patient who requests the presence of a chaperone, including those based on their age, gender and ethnicity.

When to use a chaperone or observer

The use of a chaperone or observer during intimate examinations is regarded in Australia and internationally as good medical practice, given the potential for misunderstanding during physical examinations.[1] A chaperone or observer can ensure that whatever is communicated to the patient is what takes place.

Patients may find intimate examinations stressful and embarrassing. The definition of an intimate examination depends on the patient's perspective, cultural values and beliefs; however, an intimate examination usually means examination of the breasts, genitalia or an internal examination (vaginal or rectal). Particular care and consideration for the use of a chaperone or observer must be taken when intimate examination is required for a patient who:

- is new to the practice (ie when there has been insufficient time to build trust and confidence)
- is a child
- is intellectually, mentally or physically impaired
- exhibits sexually explicit behaviour
- has a history of sexual assault
- is from a non-English speaking background
- attends for an examination after hours when few or no other staff are present at the practice.

When a child requires an intimate examination, an adult chaperone or observer should be present.

Patients may consider the offer for a chaperone or observer as a sign of respect, contributing to the development of trust and confidence in the patient–doctor relationship. Where there is developed trust and confidence, the routine presence of a chaperone or observer may be considered unnecessary for that patient, but it remains good practice to always present the patient with the option whenever an intimate examination is needed.

Obtaining prior consent

A practitioner must ask the patient if they consent to having a third party present during a consultation, including the presence of a chaperone or observer. This consent needs to be sought and provided before the consultation starts. Where a patient has previously given consent to have a chaperone or observer present, the practitioner must still check that the consent remains valid at the beginning of each new consultation, before commencing any examination. Failure to obtain a patient's consent may increase the risk of medico-legal action.[2,3]

Practitioners must record in the consultation notes that the patient has consented to the presence of a chaperone or observer. It may be necessary to later identify any third party present during a consultation. Recorded details of a chaperone or observer can be linked back to the consultation and subsequently identified if required.

Patients need to be introduced to the chaperone or observer and, if the chaperone or observer is a member of the GP's practice team, told what their position is.

Your medical defence organisation can provide advice on how your practice can develop a system for recording the presence of third parties in a consultation.

More information on obtaining patient consent is available in the RACGP *Information sheet: Informed patient decisions.*

Offering and requesting a chaperone or observer

Unless specifically mandated, GPs should consider whether to involve a chaperone in a consultation on a case-by-case basis. There are no firm guidelines on specific situations when a chaperone should be involved in a consultation, except where legally required (*refer to Mandated chaperones*).

The presence of a chaperone or observer may be offered by a GP, or requested by the patient. GPs should respect patient requests for the presence and the gender (if requested) of a chaperone or observer. When offering a chaperone or observer, it is important to tell the patient that having a chaperone present is common practice and ultimately the patient's decision.

Any offer made or request for a chaperone or observer must be clearly documented in the patient's health record, along with the subsequent decision of the patient.

Routinely offering the presence of a chaperone or observer is particularly important where:

- a patient is, or may be, vulnerable or anxious
- religious or cultural background and influences affect the patient's understanding of an examination or other clinical care
- the practitioner and patient have experienced difficulty or misunderstanding with one another in the past.

Requirements for a chaperone or observer offered by the GP

If a GP offers to provide a chaperone or observer, the chaperone or observer must:

- be qualified (eg a member of the clinical team, such as nursing staff)
- understand the nature of the consultation that they are observing
- understand any procedures that may be required and the normal way in which these are performed
- understand the support role they are providing to the patient
- be of a gender approved by the patient
- respect the privacy and dignity of the patient.

A chaperone or observer offered by the GP should not be a receptionist or practice manager. Such individuals may not be properly equipped to perform the role of chaperone or observer and can make the patient uncomfortable.[4]

When a patient requests a chaperone or observer

A chaperone or observer could be someone chosen by the patient.[5] GPs should make patients aware that they can choose their own chaperone or observer, especially given a chaperone or observer provided by the practice may not always be available on demand. A chaperone or observer chosen by the patient must be at least 18 years of age and acceptable to the patient and may be a spouse, partner, parent, other family member or a guardian/carer of the patient.[6] Patients should be advised that choosing a friend or family member as an observer carries risk, including inadvertent breaches of confidentiality and potential embarrassment.

Regardless of whether a chaperone or observer is provided by the practice or otherwise chosen by the patient, care must be taken to maintain the patient's privacy and dignity in their presence, as much as possible.

The GP must record the name and qualifications of any chosen chaperone or observer in the patient's health record.

When a patient declines an offer for a chaperone or observer

A patient may decline the offer for a chaperone or observer for any reason (eg having a third party present may make them uncomfortable). A GP cannot force the presence of a chaperone or observer on an unwilling patient. Depending on the nature of an examination or the GP's preference, the GP may not wish to continue to examine a patient who has declined a chaperone or observer. If so, the GP could:

- ask the patient to reconsider their decision
- after deliberating the risks, proceed or continue with the consultation without a chaperone or observer present
- tell the patient that they do not wish to proceed with the examination in the absence of a chaperone/observer
- provide the patient with a referral to another practitioner.

If a patient declines an offer for a chaperone or observer, the GP must record this in the patient's health record.

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Mandated chaperones

A medical board, tribunal or court may mandate that a GP have a chaperone present during consultations with all patients, or with patients of a specified gender and/or age. Mandated chaperones are a condition for permitting the GP to practise and are intended to protect patients from improper behaviour. Chaperoning conditions on a practitioner are generally an interim protective measure and mandated rarely on a small number of medical practitioners.[1]

A mandated chaperone must be visibly present during all aspects of medical care provided by the practitioner, subject to the chaperone conditions placed on the GP.

A mandated chaperone should have no prior connection with the GP they are observing. If this is not possible, the consultation should be deferred until such a person can be appointed, except in an emergency when no other practitioner can see the patient.

As with a chaperone or observer offered to a patient, the patient must consent to the presence of a mandated chaperone. A patient cannot decline the presence of a mandated chaperone; however, the consultation should not occur if the patient does not agree to the chaperone's presence. If this is the case, the patient will need to see another practitioner and the GP could refer them accordingly.

The Australian Health Practitioner Regulation Agency (AHPRA) *Chaperone protocol* specifies who may act as a mandated chaperone.

If a GP has conditions for a mandated chaperone, this could be communicated to patients:

- by letter at the time a mandated chaperone condition is enforced
- via clear written notification/signage in the waiting room and consulting room
- verbally when they make an appointment with the GP, including the reason why a chaperone is required.

When a chaperone or observer is unavailable

For chaperones or observers who are offered to, or requested by, the patient (not-mandated)

Where a chaperone has been determined as appropriate and required but a suitable one is not available, neither the patient nor GP should feel pressured into proceeding with the consultation.

The GP does not need to proceed with the consultation unless it is a medical emergency.

For mandated chaperones

If a GP is legally mandated to have a chaperone in a specified context, the GP must ensure an appropriate chaperone is available. If one is not, or if those available are unsatisfactory, the GP must not conduct that consultation.

Options when a suitable chaperone or observer is unavailable

When a suitable chaperone or observer is unavailable, the GP could:

- offer to reschedule the appointment so that a chaperone or observer can be arranged
- refer the patient to another practitioner (a referral to a practitioner who is the same gender as the patient may suit the patient's preferences in lieu of a chaperone or observer)
- counsel the patient about the effects of any delays encountered and the effects on their health.

The patient's response in these situations must be clearly documented in the patient's health record.

Further resources and information

Additional resources

- RACGP *Standards for general practices* (5th edition): Criterion C2.2 – Presence of a third party during a consultation
- AHPRA *Gender based restrictions and chaperone protocol*
- Medical Board of Australia *Guidelines for sexual boundaries in the doctor–patient relationship*

The Medical Board of Australia has established *State and Territory Boards*, responsible for making registration and notification decisions about individual medical practitioners. Health practitioner laws passed by each state and territory govern the decisions of each Board, including any determination for a mandated chaperone. AHPRA provides an *updated list of state and territory health practitioner regulation laws*.

Jurisdictional differences for the use of chaperones and observers may apply. You should check whether there are any local legislative requirements or other local guidelines in your jurisdiction. GPs may consider discussing the issue of using chaperones and observers in general practice with their medical defence organisation.

You can contact the RACGP Standards team at *standards@racgp.org.au*

References

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3. Gogoa A, Clark R, Bismark M, Gruen R, Studdert D. When informed consent goes poorly: A descriptive study of medical negligence claims and patient claims. Med J Aust 2011;195(6):340–44.
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6. Australian Health Practitioner Regulation Agency. Gender based restrictions and chaperone protocol. Melbourne: AHPRA, 2016. Available at https://www.ahpra.gov.au/registration/monitoring-and-compliance/chaperone-protocol.aspx [Accessed 1 March 2021].

We acknowledge the Traditional Custodians of the lands and seas on which we work and live, and pay our respects to Elders, past, present and future.