AHPRA invitation to review chaperone guidelines

Susan Maccallum to: ChaperoneReview@nhpopc.gov.au 02/10/2016 04:58 PM

Dear Prof Patterson,

I was moved to make a submission about this matter by a recent case published in the AHPRA newsletter (below) in which a doctor did not comply with the chaperone conditions and again assaulted female patients. While I'm aware that this review is dealing with the use of chaperones as an interim measure, I wonder if the scope could be broadened or a second review commissioned.
Despite having no experience with chaperones and only general medical psychiatric training, I'm concerned that the chaperone conditions do not protect patients from doctors who have been already convicted of sexually assaulting their patients.

18 Nov 2015

A tribunal has suspended a doctor's registration for six months, ordered him to never again see female patients and found that he engaged in both professional misconduct and unprofessional conduct.

The Medical Board of Australia referred Dr Rene Gomez, a general practitioner, to the Queensland Civil and Administrative Tribunal for sexual boundary violations and breaches of undertakings.

The Board alleged, and Dr Gomez admitted, that he had behaved inappropriately when conducting routine skin-cancer checks on two patients and had breached undertakings he had given the Board in 2010 to have a chaperone present when seeing female patients.

The Board and Dr Gomez agreed that the doctor had:

* touched one patient on the breasts and buttocks in a way that she considered was unnecessary for the performance of the skin check and which was inappropriate and sexual and
* made the other patient bend over a chair (while only wearing underwear) and assume various positions, including getting up on her tippy toes "like a ballerina". Dr Gomez told the patient numerous times that an internal vaginal examination should be conducted to ensure that she had no skin cancer in the vagina, but the patient refused.

Dr Gomez also conceded he had breached the undertakings he provided to the Board in 2010 by failing to submit a copy of the chaperone register to the Board on five occasions, and on 14 occasions conducting a full skin, breast, genitalia or buttock examination of female patients over the age of 14 years at a skin cancer centre without a female chaperone over the age of 18 years present.

Dr Gomez admitted that his conduct in performing the skin checks on two female patients amounted to professional misconduct and that his conduct in breaching the undertakings amounted to unprofessional conduct.

The Tribunal suspended Dr Gomez' registration for six months from September 2015 and imposed a permanent condition on his registration that he must not consult, assess, examine or treat any female patient.

The tribunal ordered Dr Gomez to pay the Board's legal costs

Sexual assault is always a serious crime, but when a doctor assaults his/her patient it is much worse than that , as it violates the very important trust that is at the heart of the doctor-patient relationship and exposes the perpetrator as a true sexual predator. These people, while fortunately rare, go on to do great harm and claim multiple victims by exploiting the power imbalance that favours the victims' silence; they are also typically insightless and remorseless. I'm unaware of any advances in treatment for these individuals. In my view, chaperones are an inadequate and easily evaded condition of practice for a doctor convicted of sexual assault, and we need a stronger remedy to protect our patients .

Concerning the use of chaperones as an interim measure while allegations of sexual misconduct are being investigated, the current guidelines seem adequate, but there are a few observations to be made. Medical procedures and physical examination may be confusing for patients if not well explained and misunderstandings may occur as well as spurious or vexatious complaints. It would be worth evaluating the % of proven complaints to gauge their significance. I presume the use of a chaperone would not be considered in the case of alleged sexual assault of a minor or where multiple complaints have been made against the same doctor . The key with the chaperone here will be monitoring compliance, and given the small numbers of cases it would be worth each practice receiving a visit from an AHPRA delegate . The alternative to a chaperone would be to restrict the doctor's practice to a certain gender (again difficult to police) or suspend practice until the allegations are investigated , which seems to go against the presumption of innocence; however, it is worth noting that the inquiry into institutional sexual abuse in Australia has criticised the Catholic Church (among others) for not temporarily suspending priests on the basis of abuse allegations

Again, I stress that I am no expert in these matters, but as a doctor and a woman I hope to see our patients better protected

Kind regards,

Susan

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