THE HEALTH ADVANTAGE PTY LTD
Integrated Assessment & Worker Health Care

21ST September 2016

E-Mail to: chaperonereview@nhpopc.gov.au

Attention: Prof Ron Paterson

I am a General Practitioner who owns and operates an Occupational Health Practice. This means that I conduct pre-employment medicals and injury management of injured workers. I began using chaperones for female patients about a year after I started this practice (2001) when [redacted] having, one on one, fired a female employee was accused of sexual harassment. Whilst found innocent the court costs around $40,000 were considerable.

I formed the opinion therefore that there was a potential for false accusations to be made against me under certain circumstances, specifically a negative outcome for the client (as this is an Occupational Health Practice client is a more appropriate word than patient). For example if I failed a person for a pre-employment medical or gave an opinion not to the persons liking. This has been borne out by my subsequent experience, on average I have a complaint made about me to APHRA about every two years under the circumstances as outlined above. I should add all have been dismissed.

For me therefore the chaperone is here to protect me. My procedure is the following:

1. During any consultation where the woman client remains fully clothed a chaperone is not required.
2. A female Doctor or Nurse performing examination on either sex does not require a chaperone.
3. Any male Doctor or Nurse who is performing a physical examination of a female patient which requires removal of clothing requires a chaperone to be present
4. The client is informed using a standard spoken explanation attached as Appendix 1.
5. Should the female client decline a chaperone then they are offered a second choice which is examination by one of the female staff but, this may have to occur on another day.
6. I exit the room once verbal consent has been given and the person undresses and is required dons the gown behind a closed curtain and closed door.
7. I re-enter the room after knocking with one of my female staff members.
8. The client is requested to tell us if there are any problems with putting the gown on if so the female staff member may need to help them adjust the gown behind the curtain.
9. The examination is then conducted within the direct observation of the female staff member. Generally she sits in my office chair to do so. That is the examination is conducted with the woman in the gown with the curtain open allowing the chaperone full view of the examination.

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10. At the conclusion of the examination the person is asked to sign a form indicating that a chaperone was present. This is attached Appendix 2.

You may be interested in my experience with the use of this chaperone system.

- In fifteen years of its use to my certain recollection only one lady has refused to have an examination with a chaperone present. At this time I had no female staff able to take over my role and therefore I had to decline the examination. Subsequently I am unable to recall an instance where a person has refused the chaperone to go onto an examination with one of the female staff.
- I have had one complaint made against me because I used a chaperone. This occurred after I failed the lady on the pre-employment medical and she made a complaint to the industrial commission. Whilst I wasn't present in Court the employer informs me that the industrial commissioner, herself a woman, was supportive of my use of the chaperone.
- It is very infrequent that a client will ask the reason for the chaperone. To my, admittedly uncertain, recollection it would be less than once a year. I particularly remember one lady with a medical or nursing background who jokingly said, "Oh so you have been in trouble with the Medical Board have you?" to which I gave my standard answer "I am not required to have a chaperone present due to conditions placed on my practice. It is a Clinic requirement that a chaperone is present for physical examination of female clients. That protection has been put in place to prevent any false accusations of sexual impropriety." When explained in this way I have had no issues or complaints.

In summary, in my particular circumstance I have used chaperones for fifteen years and I have not had any significant difficulty in either explaining their presence or causing discomfiture to the female client. Thus I don't believe that a Doctor, who has had a condition placed upon their Practice of using a chaperone, would have any difficult in implementing chaperoning. I believe that being straightforward and honest with my female client's results in an acceptance of the procedure. I would suggest to the Doctors that they would need to adopt the same approach: "I have had a condition placed upon my Practice by the Medical Board due to unproven sexual misconduct allegations. This condition is that I am required to have a female chaperone present during any examination of a female (or male) patient. Are you happy with me providing a female chaperone from one of my female staff members?"

In my opinion:

1. The reason for the chaperone should be disclosed to the female patient in order to obtain informed consent for the presence of another person within the consultation.
2. The patient must be asked to consent.
3. I also believe a written record of consent to the chaperone and the name of the chaperone should be kept.
4. The chaperone should have full view at all times of the examination procedure to ensure that no further sexual misconduct occurs.

I strongly disagree with Beth Wilson, the former Victorian Health Services Commissioner as her statement clearly contradicts the principal of innocent until proven guilty a corner stone of our legal system. This combined with my own personal experience of having false complaints made against myself and [redacted] indicates that chaperoning is an important part of the management of Doctors facing unproven charges of sexual misconduct.

I would hope that you find my procedures both appropriate to my circumstances and conservative of the dignity of the patient. Should you consider them not to be such or should you consider that improvement could be made I would very much appreciate your feedback.

Yours faithfully,

VERN MADDEN
M.B., B.S. (QLD)

APPENDIX 1

I am going to perform a physical examination which consists of a look at the range of motion in your joints, your neck, your back, your spine, heart, chest, balance, circulation, co-ordination, liver and groin for hernia. To facilitate this I will be providing you with a gown. The gown is designed to take the place of your outer clothing. This means you leave your bra and panties on. If you are not wearing panties or if you are wearing a G String you need to tell me so I can also provide you with an appropriate set of panties.

It is a Clinic requirement that you have a chaperone present which I will provide from one of the female staff members.

Are you happy with these conditions?

VERN MADDEN
M.B., B.S. (QLD)

CHAPERONE RECORD

The Health Advantage supplies a Chaperone to all female clients being examined by a male Doctor for:

- Pre Employment Medicals, Physical examinations where removal of outer clothing is required, Medico Legal purposes
- Other circumstances if requested by the examining Doctor
- When requested by the client either male or female.

Date	Doctor Name	Client Name	Client Signature	Chaperone Signature