INTERNATIONAL ASSOCIATION OF Forensic Nurses

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The Use of Non-family Chaperones for the Medical Forensic Examination (MFE)

Problem Statement

Sexual assault and abuse are global problems of epidemic proportions among all cultures, ethnicities, and religions (World Health Organization, 2023). Sexual assault and abuse also occur in healthcare settings perpetrated by healthcare professionals of all disciplines, genders, and ages (AbuDagga et al., 2019; Clemens et al., 2021; WHO, 2023). The relationship between patient and health care professional is unique and characterized by high levels of trust on the part of the patient. Patients entrust sensitive parts of their bodies and intimate personal information to healthcare professionals, thus creating an imbalance of power which can result in the sexual exploitation of vulnerable patients. Patients of all ages and genders may be at risk.

Forensic nurses provide trauma-informed, compassionate care to patients impacted by violence including sexual assault, sexual abuse, and intimate partner violence. Forensic nurses practice in diverse healthcare settings where the potential exists for patients to feel vulnerable due to the inherent power dynamics in the patient-provider relationship (Okonji et al, 2024). The medical forensic examination (MFE), by nature, is a physically and emotionally sensitive procedure, commonly involving the inspection and palpation of the anogenital area and breasts, and the gathering of a medical forensic history of the assault or abuse. Given the nature of the exam, the opportunity for exploitation exists.

Position

The International Association of Forensic Nurses (IAFN) recognizes all patients are at potential risk of sexual abuse or assault in the healthcare setting by healthcare professionals, including forensic nurses. The IAFN also recognizes that the use of chaperones during the examination of a patient is both a rational and cautionary approach to mitigate patient risk. Chaperones are impartial observers present during an examination of a patient, typically health professionals familiar with the procedures involved in the examination. The use of a non-family member chaperone during the MFE may enhance patient safety, comfort, and dignity. IAFN joins the American Medical Association (AMA, 2019), Canadian Medical Protection Association (CMPA, 2019), American Academy of Pediatrics (Laskey et al., 2022), Association of Women's Health, Obstetric and Neonatal Nurses (AWHONN, 2022), American College of Obstetricians and Gynecologists (2020), American College Health Association (ACHA, 2019), General Medical Council in the United Kingdom (GMC, 2013), and other healthcare organizations in stating that whenever possible patients should be offered a chaperone, especially for sensitive physical examinations. Adults who have the capacity to consent for the MFE have the right to defer the

presence of a non-family chaperone during the MFE. The International Association of Forensic Nurses asserts that:

1. *Sexual assault and abuse can and does occur in the healthcare setting perpetrated by healthcare providers.*
2. *The purpose and use of a chaperone should be discussed with the patient and caregiver (when applicable) and should be a shared decision between the patient and the forensic nurse.*
3. *Non-family member chaperones are one tool available to protect patients from sexual exploitation during MFEs and forensic nurses from unfounded allegations of sexual misconduct.*
4. *A non-family member chaperone should be the standard of care for every patient receiving an anogenital exam, but may be present during additional portions of the MFE per patient or caregiver request.*
5. *At this time access to chaperones is not universal; solutions such as telehealth can support having a second clinician "in the room" in areas where having multiple providers on site is not currently feasible (e.g., critical access hospitals and other rural locations, family justice or child advocacy centers outside of business hours).*
6. *Non-family member chaperones should be healthcare professionals or unlicensed professionals who have received education regarding their role as a chaperone.*
7. *A chaperone should be positioned to offer emotional support to the patient and serve as a witness to the examination.*
8. *Whenever possible, patients should be afforded the choice regarding the gender of the chaperone.*
9. *Education of non-family member chaperones should include cultural humility and trauma-informed care principles.*
10. *Chaperones must be educated regarding the process of reporting inappropriate behavior on the part of the forensic nurse or other healthcare provider.*
11. *The use (including chaperone name and title) or patient declination of the chaperone should be documented in the record since chaperones present during the exam may be subject to subpoena.*
12. *To support the use of trained healthcare personnel as chaperones, payors should consider reimbursement for this service.*

13. *Research should be undertaken to better understand the implications of use and non-use of chaperones, and examine the practice, including how often chaperones are used, what types of personnel are used as chaperones, what training is in place for chaperones, and the outcomes of these practices including reporting of perceived or actual misconduct and legal actions.*

Rationale

Patients experience sexual abuse or assault by healthcare professionals across the globe. A recent study in Germany (Clemens et al., 2021) reported that in a cross-sectional study of 2,503 people over the age of 14 years 4.5% of women and 1.4% of men reported health care professional sexual misconduct. Sexual contact with a healthcare professional was reported by 2.2% of women and 0.8% of men. One third of the sexual contact took place prior to age 18 and one-third was perceived as unwanted. Even when sexual misconduct was committed by the health care provider, two-thirds of participants perceived the sexual conduct as "consensual."

Dubois et al. (2019) explored 101 cases of physician sexual abuse of patients in the Unites States and described the primary forms of abuse: inappropriate touching (33%), sodomy (31%), rape (16%), child molestation (14%), and "consensual sex" (7%). An analysis of data from the U.S. National Practitioner Data Bank revealed that from 2003-2013, 862 physicians had state licensing disciplinary actions due to sexual misconduct with a rate of 9.5 per 100,000 physicians per 10 years (AbuDagga et al., 2016). In contrast, a study in Canada (Alam et al., 2016), revealed a rate of 25.1 per 100,000 physicians; 2.6% times higher than the U.S. rate (AbuDagga et al., 2019). This difference most likely reflects more frequent detection and disciplining of physicians who commit sexual misconduct in Canada, rather than more frequent sexual misconduct by Canadian physicians (AbuDagga et al., 2019).

Nurses also commit sexual offenses against patients. AbuDagga et al. (2019) analyzed data from the U.S. National Practitioner Data Bank from 2003-2016 and found 882 nurses had sexual misconduct related reports. The majority of these nurses were male (63.2%) and registered or advanced-practice nurses (61.5%). Of the 33 nurses with sexual misconduct related malpractice payment reports, nearly half (48.5%) were not disciplined by their state board. Although very few nurses have been reported for sexual misconduct, there must be a zero-tolerance for such behavior.

The use of a non-family member chaperone is an important tool to ensure patient safety from sexual exploitation (ACHA, 2019; AWHONN, 2022; Laskey et al., 2022). A chaperone promotes respect for patient dignity and the professional nature of the exam, and can enhance patient comfort and safety, during sensitive examinations (University of Michigan Health, 2020).

The use of a chaperone also protects the healthcare professional, including forensic nurses, from unfounded allegations of sexual misconduct. The purpose and use of a chaperone should be discussed with the patient and caregiver (when applicable), should be a shared decision between the patient and the forensic nurse, and should be documented in the medical record (Laskey et al., 2022).

A chaperone is a professional who has received education to act as a support and witness for the patient and healthcare provider during the MFE and offers protection to both patients and clinicians. A study by Whitford et al. (2001) indicates that patients feel respected when offered a chaperone. The MFE is a sensitive exam most often performed at a time when the patient has recently experienced physical and emotional trauma. Chaperones should be utilized to provide reassurance to the patient and enhance patient comfort and foster a sense of safety and dignity during the MFE. A family member may be present during the exam if so desired by the patient but is distinct from a healthcare chaperone.

The International Association of Forensic Nurses acknowledges the role chaperones play in the protection of patients and healthcare providers. Whenever possible, patients should be offered a non-family member chaperone provided by the healthcare organization for the medical forensic examination.

References

AbuDagga, A., Carome, M., & Wolfe, S. (2019). Time to end physician sexual abuse of patients: Calling the U.S. medical community to action. *Journal of General Internal Medicine, 34(7),* 1330-1333.

AbuDagga, A., Wolfe, S., Carome, M., & Oshel, R. (2019). Crossing the line: Sexual misconduct by nurses reported to the National Practitioner Data Bank. *Public Health Nurse, 36,* 109-117.

AbuDagga, A., Wolfe, S., Carone, M., & Oshel, R. (2016). Cross-sectional analysis of the 1039 U.S. physicians reported to the National Practitioner Data Bank for sexual misconduct, 2003-2013. *Plos One, 11(2),* e0147800.

Alam, A., Klemensberg, J., Griesman, J., & Bell, C. (2011). The characteristics of physicians disciplined by professional colleges in Canada. *Open Medicine, 5(4),* e166-e172.

American College Health Association. (2019). *ACHA guidelines: Best practices for sensitive exams.* https://www.acha.org/documents/resources/guidelines/ACHA_Best_Practices_for_Sensitive_Exams_October2019.pdf

American College of Obstetricians and Gynecologists. (2020). Sexual misconduct: ACOG committee opinion. *Obstetrics & Gynecology, 135(1),* e43-e50.

American Medical Association. (2019). *Code of medical ethics, opinion 1.2.4. Use of chaperones.* https://www.ama-assn.org/system/files/code-of-medical-ethics-chapter-1.pdf

Association of Women's Health, Obstetric and Neonatal Nurses. (2021). The use of chaperones during sensitive examinations and treatments. *Journal of Obstetric Gynecology & Neonatal Nurses, 12,* e1-e2.

Canadian Medical Protection Association. (2019). *Is it time to rethink your use of chaperones?* https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2019/is-it-time-to-rethink-your-use-of-chaperones

Clemens, V., Brahler, E., & Fegert, J. (2021). Professional sexual misconduct by healthcare professionals towards patients: A representative study. *Epidemiology and Psychiatric Sciences, 30,* 1-8.

Dubois, J., Walsh, H., Chibnall, J., Anderson, E., Eggers, M., Fowose, M., & Ziobrowski, H. (2019). Sexual violation of patients by physicians: A mixed-methods, exploratory analysis of 101 cases. *Sex Abuse, 31(5),* 503-523.

General Medical Council (2013). *Ethical guidance for doctors: Intimate examinations and chaperones.* https://www.gmc-uk.org/-/media/documents/ Maintaining_boundaries_Intimate_examinations_and_chaperones.pdf_58835231.pdf

Laskey, A., Haney, S., Northrop, S., & The Council on Child Abuse and Neglect (2022). Protecting children from sexual abuse by health care professionals and in the health care setting. *Pediatrics, 150(3),* 1-8.

Okonji, A., Ishola, A., Ayamolowo, L., Femi-Akinlosoto, O., Mapayi, B., & Folayan, M. (2024). Healers that hurt: A scoping review of medica reports of cases of rape in healthcare settings. *BMC Psychology, 12(1),* 1-18.

University of Michigan Health (2020). *The use of chaperones during sensitive exams and procedures.* https://www.uofmhealth.org/patient-visitor-guide/patients/use-chaperones-during-sensitive-examinations-and-procedures

Whitford, D., Karin, M., & Thompson, G. (2001). Attitudes of patients towards the use of chaperones in primary care. *British Journal of General Practitioners, 51(466),* 381-383.

World Health Organization (2023). *WHO policy on prevention and addressing sexual misconduct.* https://www.who.int/initiatives/preventing-and-responding-to-sexual-exploitation-abuse-and-harassment