ROYAL AUSTRALASIAN COLLEGE OF SURGEONS

INDEPENDENT REVIEW OF CHAPERONES TO PROTECT PATIENTS

Date **3 October 2016**

Established in 1927, the Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical education in Australia and New Zealand. RACS is a not-for-profit organisation representing more than 7,000 surgeons and 1,300 surgical trainees. Approximately 95 per cent of all surgeons practising in Australia and New Zealand are Fellows of the College (FRACS).

CONSULTATION QUESTIONS

Do you think chaperone conditions are an effective measure to protect patients, and why?

The Royal Australasian College of Surgeons (RACS) believes that the use of chaperones can form part of an effective strategy that protects patients. RACS supports the MBA's requirement that in cases where a chaperone is required for a practitioner, that the chaperone is visibly present during all aspects of medical care provided by the practitioner. RACS affirms that a practitioner should make known to the patient the presence of the chaperone. Where conditions are in place, the consultation should not occur if the patient does not agree to the presence of a chaperone.

A chaperone provides an important additional layer of protection to the patient, but the presence of a chaperone does not in itself guarantee patient safety. Whether a chaperone is an effective measure is dependent on a number of other factors including:

- Maintenance of records that demonstrate compliance with the imposed condition;
- Appropriate training of chaperones, ensuring that they have a clear understanding of their role and responsibilities;
- Adequate monitoring by the MBA to support compliance with the condition;
- Availability of immediate reporting to the regulator to ensure any concerns are expeditiously reviewed and further action taken where required

The importance of some of these measures to ensuring the effectiveness of chaperones was highlighted during an audit performed on the surgical assessment unit (SAU) at the Royal Stoke University Hospital in the United Kingdom. The audit found that the practices in the unit did not reflect the General Medical Council (GMC) standard - either through not using a chaperone as required and/or not keeping adequate supporting documentation to demonstrate that a chaperone was present during the consultation[1]. Ensuring compliance with the condition is critical to its effectiveness in protecting the patient.

Training is important to supporting chaperones in effectively carrying out their duties and to ensuring that practitioners understand and comply with the condition(s) imposed by the Board. To support the effective administration of conditions, the MBA should explore training options to ensure practitioners and chaperones are aware of their obligations and responsibilities.

In regards to the selection of chaperones RACS notes that current guidelines permit, in limited circumstances, that individuals who are employed by the practitioner may be approved to act as chaperones[2]. In instances where a condition has been imposed, RACS believes that the appointment of a chaperone should be restricted to those who have no connection with the practitioner. If this is not possible, the consultation should be deferred until such a person can be appointed, except in circumstances where there is an absence of another appropriately trained and/or credentialed practitioner and where the patient's clinical need requires immediate action. RACS acknowledges that

[1] N. Sharma, A. Walsh & S. Rajagopalan, 'An audit on the use of chaperones during intimate patient examinations', *Annals of Medicine and Surgery*, Vol. 7, May 2016, http://www.sciencedirect.com/science/article/pii/S2049080116001308
[2] Australian Health Practitioner Regulation Agency, *Chaperone Protocol*, November 2015, https://www.ahpra.gov.au/Registration/Monitoring-and-compliance/Chaperone-Protocol.aspx

it may be appropriate for a practitioner to have a connection to a chaperone in circumstances where they are not subject to a condition and ask a staff member to chaperone from time-to-time in their practice.

Guidelines available via the AHPRA website could provide greater clarification as to what a practitioner who has chaperone conditions should do where a delay in treatment will adversely affect the patient's health. The GMC standard notes that the patient's clinical need takes precedence[3]. Given that there are times when informed consent cannot be obtained due to the urgency of a surgical event, it would be beneficial if the guidelines could provide clearer guidance or protocols for these circumstances.

If chaperone conditions are appropriate in some circumstances, what steps do you think need to be taken to ensure patients are protected and adequately informed?

While the independent review is focused on the use of chaperones where medical practitioners are under investigation for misconduct, RACS would also support further efforts by the regulator to be more proactive in preventing this behaviour from occurring. RACS supports chaperones being routinely offered to patients during intimate examinations, particularly in circumstances where:

- a patient may be vulnerable or anxious;
- familiarity with medical practices may be affected by religious and/or cultural background;
- the practitioner has experienced some difficulty or misunderstanding in a previous consultation with the particular patient.

RACS believes that the more proactive use of chaperones can offer better protection for both the patient and also the practitioner.

In what circumstances do you think chaperone conditions are not appropriate, and why?

RACS supports the application of conditions where a serious accusation has been made; where the MBA has established an ongoing investigation or where a finding has been made against a practitioner. RACS does not support the imposition of a chaperone without a demonstrated need particularly given the substantial impact this may have on the practitioner's present and ongoing practice and its implications more broadly to the sustainability of the healthcare system.

Importantly, when a chaperone is used, ongoing surveillance and reporting to ensure compliance with the condition, as well as frequent review to support its continuation should be undertaken by the regulator.

Can you suggest an alternative regulatory measure to protect patients while allegations of sexual misconduct are investigated?

The MBA could consider an additional support mechanism of a mentor when applying the chaperone condition to assist in the remediation of the practitioner while the investigation is being undertaken. This would provide another layer of monitoring and also support to the practitioner who may be experiencing significant mental, financial or physical distress while the situation is being investigated.

[3] General Medical Council, 'Intimate Examinations and Chaperones', *Good Medical Practice Guide*, April 2013, http://www.gmc-uk.org/guidance/ethical_guidance/21168.asp

Do you have any other general comments for the review to consider?

RACS is keen to support any of its Fellows, International Medical Graduates (IMG) or Trainees who are subject to conditions imposed by the regulator. RACS has a support mechanism easily accessible to Fellows, IMGs and Trainees provided by Converge International. In all circumstances patient safety must remain the paramount concern of regulators and practitioners.

References

Australian Health Practitioner Regulation Agency, *Chaperone Protocol*, November 2015, https://www.ahpra.gov.au/Registration/Monitoring-and-compliance/Chaperone-Protocol.aspx

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