

## MLMIC Risk Management Tips

### Tip #11: Using Chaperones during Physical Examinations

**The Risk:** Practitioners must recognize that, at any time, a patient may make a complaint to the Office of Professional Medical Conduct alleging that he or she was the victim of a physician's sexual misconduct. Having a chaperone present during intimate physical examinations may be beneficial to both the physician and patient. First, it may provide reassurance to patients, demonstrating both respect for their concerns and an understanding of their vulnerability. Second, the use of chaperones can provide legal protection for the physician in the event of a misunderstanding or false accusation of sexual misconduct on the part of the patient.

#### Recommendations:

1. A practitioner should always use a chaperone when performing breast or pelvic examinations on patients.
2. Consideration should also be given to the use of a chaperone for rectal and/or testicular examinations and in unusual situations where the physician is concerned that the patient, spouse, or family member seems uncomfortable, apprehensive, or otherwise heightens the practitioner's concerns. Such situations include when a parent or spouse demands to be present, or when a patient acts seductively or otherwise inappropriately.
3. The presence of a chaperone must always be documented in the patient's medical record. The practitioner can simply document "chaperone in room for the entire exam" and the chaperone's initials. A template is available from Fager Amsler & Keller, LLP from which either a stamp or a form for your electronic medical records (EMR) for this documentation can be made by your office. Adding the name and title of the staff member who chaperoned the exam allows you to verify their presence at a later date, should the need arise.
4. A chaperone should be provided even if the practitioner is the same gender as the patient.
5. Chaperones must be educated about patient privacy and confidentiality.

6. Unless specifically requested by the patient, family members should not be used as chaperones.
7. Respect for the patient's privacy can be maintained by speaking to the patient privately before and/or after the examination.