PROFESSIONAL RELATIONSHIP BETWEEN DOCTORS AND PATIENTS

UPDATED AMA GUIDANCE

On the 7th June 2012 the Association released two updated Position Statements that deal with the professional relationship between doctors and patients.

Doctors have an ethical and legal duty to maintain appropriate professional boundaries with their patients.

The AMA Position Statement on Sexual Boundaries Between Doctors and Their Patients 2012 provides guidance to doctors on maintaining appropriate sexual boundaries with patients, former patients, patients’ carers and close family members.

The major amendments to the 1994 version of the Position Statement include:

- Refers to maintaining appropriate boundaries with former patients as well as patients’ carers and family members;
- Greater emphasis on consent, including where consent is uncertain or has been withdrawn;
- Now refers to chaperones; and
- Refers to Guidelines from the Medical Board of Australia on sexual boundaries as well as mandatory reporting

The Patient Examination Guidelines 2012 Position Statement provides advice to doctors on conducting physical examinations. The Guidelines address consent and communication, privacy, examination of patients who lack decision-making capacity, and use of chaperones.

The major amendments to the 1996 version of the Position Statement include:

- Greater emphasis on consent, including where consent is uncertain or has been withdrawn;
- Greater emphasis on how to appropriately conduct examination; and
- Now refers to chaperones

Copies of both the Sexual Boundaries Between Doctors and Their Patients 2012 and Patient Examination Guidelines 2012 are attached to this Private Practice Bulletin

Should you have any queries regarding this bulletin please do not hesitate to contact Gary Bucknall email gary.bucknall@amawa.com.au or telephone 9273 3000.
Position Statement on Sexual Boundaries Between Doctors and Their Patients 2012

1. Doctors have an ethical and legal duty to maintain appropriate professional boundaries with their patients. Professional boundaries facilitate trust, support good care, and protect both doctors and patients. Doctors should not use their professional position to establish or pursue a sexual, exploitative, or other inappropriate relationship with patients. A doctor who breaches the professional boundary may risk the patient’s trust in the doctor, cause psychological damage to the patient, compromise the patient’s medical care, and undermine the trust and confidence that other patients and the wider community have in the medical profession. Doctors should familiarise themselves with relevant guidelines of the Medical Board of Australia, as published from time to time.

2. Sexual boundaries are an important component of wider professional boundaries. In order to maintain appropriate boundaries, a doctor should not engage in sexual activity with a current patient (regardless of whether or not the patient has consented), make sexual remarks, touch patients in a sexual way, or engage in sexual behaviour in front of a patient.

3. Effective, culturally appropriate communication between doctor and patient is essential to avoid any misunderstanding that might be misconstrued as inappropriate sexual behaviour by the doctor (in some circumstances, an interpreter may be required). Before conducting an examination, particularly an intimate examination, the doctor should ensure the patient has given consent. The patient should understand the reason for the examination and how the examination will be conducted. The patient should be provided with a private space to undress.

4. A doctor should not conduct an examination if the patient does not consent or where consent is uncertain. In these circumstances, the doctor should reiterate the importance of the examination with the patient. If practical, and with the patient’s consent, the doctor may offer the patient a chaperone or support person. If the patient continues to refuse to consent to the examination, the doctor should defer the examination or refer the patient to another doctor. The patient’s refusal to undertake the examination should be included in the medical record along with any relevant discussion between doctor and patient. The doctor should record the recommended course of action.

5. If an examination is in progress and the patient withdraws consent, the doctor should cease the examination immediately. The doctor may wish to defer the examination or refer the patient to another doctor. The patient’s withdrawal of consent should be recorded in the medical record along with any relevant discussion between doctor and patient. The doctor should record the recommended course of action.

6. Doctors should allow for a chaperone to accompany the patient during an intimate examination (where the patient has consented to this). When not possible or appropriate, a support person may be used. Doctors should note in the patient’s record the chaperone’s name or the support person’s name and relationship to the patient.

7. There may be circumstances where a patient displays inappropriate sexual behaviour towards the doctor. The doctor should attempt to re-establish appropriate professional boundaries; however, in certain circumstances the doctor may decide to end the therapeutic relationship and transfer care to another doctor. The doctor should note the patient’s behaviour and any decisions regarding the therapeutic relationship in the patient’s medical record.

8. A doctor should not solicit or engage in a sexual relationship with a patient’s carer or close family member (such as a spouse or parent of a child patient) as this may compromise the patient’s trust in the doctor.
9. It may be inappropriate for a doctor to engage in a sexual relationship with a former patient if this breaches the trust the patient had in the doctor at the time of the therapeutic relationship.¹

10. Doctors who breach sexual boundaries with their patients, their patients’ carers or close family members, or their former patients may be in breach of the Health Practitioner Regulation National Law Act (the National Law) and subject to investigation by the Medical Board of Australia.¹

11. Doctors have an ethical and legal duty to report colleagues or other registered health care professionals who breach sexual boundaries.¹, ii, iii

iii Medical Board of Australia. *Guidelines for Mandatory Notifications.* 2010.
Patient Examination Guidelines

1996

Preamble

1. The Australian Medical Association believes that medical practitioners have a duty to act in an ethical, professional and considerate manner at all times towards patients, and that communication is integral to the doctor/patient relationship. Whilst some procedures or examinations may be a simple or routine matter for the medical practitioner, they may not be seen as such by the patient.

2. In order to prevent misunderstandings between doctors and patients the AMA has endorsed the following guidelines:

Physical Examination

1. The medical practitioner (and indeed all health care workers) should examine the patient in privacy.

2. The medical practitioner should provide a sheet, a gown or some other garment to preserve modesty where it is appropriate.

3. The patient's modesty should be preserved in undressing and redressing before and after the physical examination. Examples of how this modesty should be preserved are:
   (a) The provision of a screen behind which the patient can undress.
   (b) The medical practitioner excusing himself/herself from the consulting room whilst the patient is undressing.
   (c) The medical practitioner turning away while the patient is disrobing.
   (d) The medical practitioner should consider whether the presence of a third person is required.

Explanation to the Patient

1. The medical practitioner should explain what part(s) of the body is/are to be examined, why it is to be examined, and what the examination entails prior to the physical examination commencing.

2. Similarly, the position of the medical practitioner during the examination should be explained (this is particularly so when the practitioner is standing behind the patient).

3. The medical practitioner should explain the extent to which disrobing is required, and the reason again prior to the examination commencing.

Based on Guidelines developed by the AMA (WA Branch) and the Health Consumers Council of WA.

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