

SMA Advisory On Breast And Chest Examination Of Female Patients (issued by SMA for its members, on February 1999)

The New Paper, on 30 June 1998 and 9 July 1998, reported two incidents of women alleging improprieties of male doctors during chest examinations. In response, the SMA Council decided to convene an ad hoc Committee to look into the matter.

The Committee wrote to the Medical Defence Union (MDU) and the Medical Protection Society (MPS) for advice, obtained the records of a relevant legal case from its legal advisers and conducted a literature search on the topic.

A relevant article in the Journal of the Medical Defence Union (MDU) October 1998 entitled "The Breast Test" reported that there is anecdotal evidence 'that some male doctors are now reluctant to perform breast examinations for fear of allegations of possible sexual assault'. The author, Dr Craig Lilienthal, Medico-Legal Consultant to the MDU however pointed out that if an examination is not performed, or is not performed properly, the doctor may be sued for negligence if a serious condition is missed and the patient suffers harm. Appropriate physical examination is an essential part of the diagnostic and disease screening process.

The SMA Council, after deliberating over the findings of the ad hoc committee would like to advise SMA members on three aspects:

- I. Use of chaperone
- II. Need for communication and consent
- III. Method of examination

I. USE OF CHAPERONE

Advisory: The doctor must exercise his discretion in deciding when to ask to be chaperoned for an intimate clinical examination eg. the breasts of females and the ano-genital region. When a male doctor performs such a clinical examination on a female patient, it is advisable that a chaperone be present.

1. In the experience of the Medical Defence Union (MDU), circumstances that pose problems include examining the torso (which covers chest and breasts) of young medically inexperienced female patients consulting unfamiliar doctors. It is when there has been an incident that the absence of a chaperone can be a source of bitterness, recrimination and regrets for the doctor complained against.
2. The position of the Medical Protection Society (MPS) is that the use of a chaperone should always be considered when performing intimate clinical examination even on patients of the same sex. However, the Society recognises that to insist upon a chaperone for every examination is probably unnecessary and clinically undesirable, apart from being impractical.

3. MPS is of the view that the doctor must exercise wisdom and discretion in deciding when to ask to be chaperoned for an examination, recognising the risks and taking sensible steps to minimise them.

4. Professor Roger Jones, in an article entitled "The need for chaperones" in the British Medical Journal (BMJ) of 16 October 1993 made the observations that pelvic and genital examinations are not the only source of problems. Darkening the room (eg. for fundoscopy) or examining the female torso (which includes the breasts and chest) may give rise to misunderstandings. Complaints of indecent assault have been made by patients of both sexes and are not limited to allegations against a doctor of the opposite sex.

II. NEED FOR COMMUNICATION AND CONSENT

Advisory: The doctor should take the due process of explaining to the patient what is required in the examination of certain areas of the body such as the breasts and genitalia, as well as the need for such an examination.

MDU's stand as spelt out in an article entitled "The Breast Test" by Dr Craig Lilienthal, MDU Medico-Legal Consultant, is that "allegations of assault are unlikely to arise when doctors, male and female, communicate properly with their patients and explain the nature and purpose of the examination."

2. It is also the MPS' experience from handling cases, that the majority of allegations of indecency arise from the failure to communicate and understand as well as a lack of awareness and sensitivity. Many careful clinicians will conduct a more extensive clinical examination, but unless their reasons are explained to the patient, an erroneous assumption may be made by the patient, leading to a complaint. In the past, failure to give a simple explanation to the patient has resulted in reports to the Police of alleged assault by the doctor.

3. Verbal comments and innuendoes in the course of an examination or insufficient understanding of the sensitivities of patients from other racial, cultural or religious backgrounds in our multi-racial society, may give rise to complaints. Insensitivity can lead to misunderstanding and occasionally to allegations of indecency.

4. For insurance-related examinations, implied consent has been given when the patient signs the insurance proposal forms. Insurance companies have panels of doctors of both sexes. Agents have to inform clients of the need for breast/chest examinations and the names of the doctors on the panel.

5. The doctor should further communicate to the patient about the need and process for a breast/chest examination. If the patient does not give consent for such an examination; the doctor should document it in his case notes and communicate this to the insurer. The insurers can either get another doctor to do the examination or impose exclusion clause if there are potential risks arising from the examination so omitted.

6. We have been informed that insurance companies in Singapore do not routinely require vaginal and rectal examinations for insurance policies.

III. METHODS OF BREAST AND CHEST EXAMINATION

Advisory: There are several acceptable methods of clinical examination of the breasts and chest. Doctors are advised however to refer to the examination of the chest or breast in a standard clinical examination text of their choice and be thoroughly familiar with the technique.

1. A recent appeal case in High Court of Singapore (Appeal No. 359/94/01) involved a male doctor who was earlier convicted by a District Court for outraging the modesty of a patient during the course of medical examination for a life insurance policy which includes breasts and chest examination. The prosecution's expert witness testified that the breast examination might be carried out with the patient lying down as it was more accurate. The defence's expert witness testified that the examination might be carried out with the patient sitting up.

2. In setting aside the conviction, the Chief Justice made several points which are very relevant to doctors performing clinical examinations viz.

i. The experts' evidence in the District Court trial did not show that one method was "definitely and completely wrong so that no doctor in his right mind would do it". The dispute between the two experts was only about the question of how a breast examination can be better done.

ii. There must be room for some differences in practice among different doctors.

Members of the Ad hoc Committee:

Chairman : Dr Cheong Pak Yean Chairman, Ethics Committee

Secretary : Dr Tan Chue Tin Member, Ethics Committee

Members:

Dr Chong Yeh Woei, General Practitioner

Dr Chow Wan Cheng, Consultant Physician

A/Prof Goh Lee Gan, Assoc Professor of Family Medicine

Dr Joy Lee Siew Yang, General Surgeon

Dr Leow Yung Khee, Senior Manager, Insurance Company

A/Prof Low Cheng Hock, Assoc Professor of Surgery

Dr Tan Chai Lee, General Practitioner

Dr Tan Seok Leng, General Practitioner