SPOTLIGHT FOLLOW-UP

State acts on simultaneous surgeries

DINA RUDICK/GLOBE STAFF

The Lunder Building at Massachusetts General Hospital, which opened in 2011, is where orthopedic surgeons operate.

By Jonathan Saltzman and Jenn Abelson | GLOBE STAFF

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Surgeons would have to document each time they enter and leave the operating room under a new regulation that the state medical board overwhelmingly approved Thursday amid heightened scrutiny of doctors who do more than one operation at a time.

The Massachusetts Board of Registration in Medicine approved the new rule, which appears to be one of the first of its kind nationally, with relatively little debate. The move comes in the wake of a series of reports by the Globe Spotlight Team about double-booked operations.

Disputes over surgeons performing simultaneous surgeries have divided the medical staff at hospitals around the country in recent years. A bitter disagreement at Massachusetts General Hospital led to the dismissal of the hospital's leading critic of double-booking in August and resulted in ongoing federal and state investigations.

But patients seldom know when they are sharing their surgeon, and the lack of documentation in operative reports about the surgeon's whereabouts leaves some wondering if their doctor actually performed key parts of the procedure, especially when things go wrong.

"We have heard various concerns in the past few months from various sources," Dr. Candace Lapidus Sloane, chairwoman of the board that regulates the state's roughly 35,000 licensed physicians,

said during a break in the meeting Thursday afternoon. “We look at cases and situations, and we try to learn from them.”

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The board also approved a requirement that the primary surgeon identify the backup doctor who would assume responsibility if the first surgeon is going to leave the operating room.

The new rules, among a series of regulation revisions that the board passed by a vote of 5 to 1 late Thursday, need the approval of several state agencies by the end of March before they can go into effect.

Although the revisions came against the backdrop of a growing national debate on simultaneous surgeries, none of the seven board members mentioned the practice during a discussion Thursday morning.

Sloane, a pediatrician and dermatologist, told the Globe she didn't know if any other states require operative reports to specify the comings and goings of surgeons.

An official with the Federation of State Medical Boards, which represents the nation's 70 state medical and osteopathic regulatory boards, said the group doesn't track that information.

But Dr. James Rickert, an Indiana surgeon who is president of The Society for Patient Centered Orthopedics, said he believes that Massachusetts could be the first state that would require documentation of the attending surgeon's presence in the operating room.

"I know that surgeons don't think this is an important issue, so they assume that it's not important to patients. However, this thinking is

wrong," Rickert said. Patients "want to know that their surgeon is the individual who actually operated on them, and I think they have a right to this information. We are talking about situations where patients are completely vulnerable and, by definition, there is a risk of death or severe bodily injury."

The operative reports of several Massachusetts hospitals obtained by the Globe specified the exact time nurses entered and left the OR but did not do that for surgeons. That discrepancy has troubled critics of double-booking, including some patients who learned to their surprise and dismay that their surgeons had another operation at the same time as theirs.

Operative reports are kept by the hospital but are available to patients on request.

One former spine surgeon at MGH, Dr. Kirkham Wood, is being sued for medical malpractice by three patients, including former Red Sox pitcher Bobby Jenks. Each patient said he had no idea that Wood was also listed on operating room schedules obtained by the Globe as the attending surgeon in another operation that overlapped with theirs. The three plaintiffs have been unable to determine from medical records when Wood was in their operating rooms and when he was in the rooms of the other patients.

MGH spokeswoman Peggy Slasman wrote in an e-mail that "no one

has heard anything about [Board of Registration] actions today, so we [are] unable to respond to any such proposed regulations at this time."

Officials at some hospitals, including Beth Israel Deaconess Medical Center and Boston Medical Center, say they already record surgeons' movements in and out of the OR.

Nurses typically document when they leave the OR to make sure other nurses fill in for them during breaks and to help the hospital determine who is monitoring the patient and keeping track of surgical instruments, according to David Schildmeier, a spokesman for the Massachusetts Nurses Association.

He welcomed medical records tracking the movements of a surgeon, saying, "This is something that the public deserves to know."

Dr. Dennis Burke, a prominent hip and knee surgeon at MGH who complained about double-booking for years to hospital leaders before speaking to the Spotlight Team last year, called the move by the medical board "huge."

"What surgeon would want to have a major case where it's documented that he's not in the room? That would open him to liability," he said. "And it's not onerous. The records are electronic. The nurses are documented in and out. The scrub techs are

documented in and out. Why not surgeons?"

Burke was ultimately dismissed in August for allegedly violating patient privacy by providing the Globe with redacted copies of his own surgical case records.

The new rule is one of a series of revisions the board approved in response to an executive order by Governor Charlie Baker last March that all state agencies review their regulations. Other changes include a requirement that doctors report physicians who are impaired by alcohol or drugs while on duty and an expansion of online physician profiles to include out-of-state malpractice judgments and settlements involving Massachusetts doctors.

All the revisions need the approval of the state Department of Public Health, the Executive Office of Health and Human Services, and the Executive Office of Administration and Finance by March 31, when they are set to expire, according to Eileen Prebensen, the board lawyer.

Sloane initially recommended that operative reports also document which member of a medical team performs each part of a surgical procedure. But fellow board member, Dr. Joseph P. Carrozza, an interventional cardiologist, said that could be impractical since some surgeries have many discrete parts.

"That's a very onerous and difficult thing to do," he said. "A procedure I did the other day had 300 components."

Sloane said she understood and dropped that suggestion.

One patient safety advocate had mixed feelings about the board's new rules for surgeons.

Dr. Tejal Gandhi, president of the National Patient Safety Foundation, said she supports being transparent with patients about other surgeons who might be involved in the operation. But it could be challenging to provide information on backup attending physicians to patients if the informed consent takes place weeks or months before the operation because schedules can change, she said.

Gandhi said she's not sure how beneficial the information about a surgeon's movements would be for patients, unless there was litigation and somebody wanted to know what was happening during an operation.

"That's a much rarer event, and I see the benefits potentially from the auditing and improvement standpoint for the hospital," Gandhi said.

Dr. Dennis Dimitri, president of the Massachusetts Medical Society, said it would make sense to identify the backup attending to patients if surgeons anticipate being absent for "any significant period of

time."

"We believe a robust informed consent process would be a benefit to patients so they have as complete an understanding as possible of the procedure they're going to have done, what the risks and benefits may entail, and who is going to be participating in their surgical procedure," Dimitri said.

Dimitri also said that it's reasonable to document in the operative report if a surgeon "needed to be absent for some significant period of time," but that tracking "every general in and out may be overreaching."

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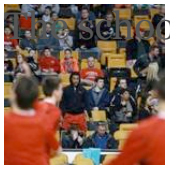

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Lloyd Shapley, 92, Nobel laureate, game theory titan

Dr. Shapley, who was born in Cambridge, was a longtime researcher at the Rand Corp. think tank. MORE...