



## Information for practice monitors approved by the Health Ombudsman

This information sheet is to provide you with information regarding your role and responsibilities if you are approved by the Health Ombudsman to act as a practice monitor for a registered health practitioner<sup>1</sup>.

### Background

One of the main objectives of the *Health Ombudsman Act 2013* (the Act) is to protect the health and safety of the public.<sup>2</sup> To assist in achieving this, the Health Ombudsman may take immediate registration action on a health practitioner's registration if the Health Ombudsman reasonably believes that:

- because of the practitioner's health, conduct or performance, the practitioner poses a serious risk to persons *and*
- it is necessary to take immediate registration action to protect the health or safety of the public *or*
- it is otherwise in the public interest<sup>3</sup>.

In circumstances where immediate registration action is necessary, the Health Ombudsman will decide whether to suspend or impose conditions on a practitioner's registration.

Conditions may require the presence of a practice monitor when the practitioner has contact with patients of an identified patient group. Practice monitor conditions are used as a protective measure while further action is taken under the Act, such as investigation.

### What is a practice monitor?

A practice monitor is required to be continuously physically present and directly observe (see and hear) all contact between a practitioner and any patient of an identified patient group as specified in the practitioner's conditions. For the purposes of a practitioner's practice monitor conditions, words have particular meanings as identified in the definitions below.

### Definitions

*'Practise'* is defined as any role, whether remunerated or not, in which the individual uses their skills and knowledge in their profession. It is not restricted to the provision of direct clinical care and includes using the knowledge and skills in a direct non-clinical relationship with a client, working in management, administration, education, research, advisory, regulatory or policy development roles and any other roles that impact on safe, effective delivery of services in the profession.

*'Practice location'* is defined as any location where the practitioner practises the profession including any place where the practitioner:

- a. is self-employed
- b. shares premises with other registered health practitioners
- c. is engaged by one or more entities under a contract of employment, contract for services or any other arrangement or agreement
- d. provides services for or on the behalf of one or more entities, whether in an honorary capacity, as a volunteer or otherwise, whether or not the practitioner receives payment from an entity for the services, or
- e. provides professional services at the residential premises of a patient.

<sup>1</sup> A registered health practitioner is defined under schedule 1 of the *Health Ombudsman Act 2013* and section 5 of the *Health Practitioner Regulation National Law (Queensland)* (the National Law).

<sup>2</sup> Section 3 of the *Health Ombudsman Act 2013*.

<sup>3</sup> Section 58 of the *Health Ombudsman Act 2013*.



*'Identified patient group'* relates to a category of individuals referred to in a condition imposed on a practitioner's registration (e.g. all patients, patients of a particular age or gender, or patients with a particular health condition or history).

*'Contact with a patient'* includes consultation, interview, examination, assessment, prescribing for, advising, or otherwise treating a patient, whether it is in person or via a communication device.

*'Patient'* is defined as:

- a. any individual awaiting, requiring, or receiving the professional services of an unregistered or registered health practitioner; and
- b. any spouse, partner, parent, family member or guardian/carer of this individual, who accompanies the individual at the time of consultation with the practitioner and requests the professional services of the practitioner.

The conditions may specify that a practice monitor is required for **all** patients or patients of an **identified patient group**. It is important to understand that if someone accompanies a patient to a consultation with the practitioner, and that person requests the professional services of the practitioner, that person is then also considered a 'patient' and the practice monitor requirements apply if that person falls within the identified patient group.

*Example scenario: Dr X has a condition imposed on his registration, requiring he has no contact with female patients without the presence of a practice monitor who is continuously physically present and directly observes (sees and hears) all contact between the practitioner and female patients. Mrs Y is not a patient of Dr X, however her 13 year old son requires a consultation with a practitioner and an appointment is scheduled with Dr X. A practice monitor is not required in this scenario as Mrs Y's son is the patient, not Mrs Y. However, during the consultation Mrs Y asks Dr X if he can examine a mole on her arm that she has become concerned about. Dr X must not examine or engage in any other form of 'contact' with Mrs Y without the presence of a practice monitor.*

*'Female'* is defined as any individual whose biological gender is that of a female, as well as all individuals whose gender identity or gender expression is that of a female.

*'Male'* is defined as any individual whose biological gender is that of a male, as well as all individuals whose gender identity or gender expression is that of a male.

### **When is a practice monitor required?**

The schedule of conditions imposed on a practitioner's registration outlines when a practice monitor is required and who is defined as a *patient*.

Where a patient requiring a practice monitor is under the age of 18, a parent or guardian must be present and informed of the need for a practice monitor.

If a practice monitor is not available a practitioner must not have contact with any patient that requires a practice monitor.

### **Can I act as a practice monitor?**

Prior to nominating you to act as their practice monitor, the practitioner must provide you with:

- a full copy of the conditions imposed on their registration
- a full copy of the most recent document stating the reasons for the imposed conditions, or the tribunal referral notice

Practice monitors must be nominated by the practitioner by completing the *Nomination of practice monitors* form. Unless otherwise directed by the Health Ombudsman, any individual nominated as a practice monitor must acknowledge and agree to the nomination and confirm they meet the criteria below by completing the *Practice monitor acknowledgement* form which states:

- you are a registered health practitioner with at least 5 years post registration experience as a health practitioner
- you do not have any conditions on your registration<sup>4</sup>, are not subject to investigation or other action under the National Law<sup>5</sup> or *Health Ombudsman Act 2013* and did not have had an employment, contractual or financial relationship with the practitioner before the practice monitor conditions were imposed
- you have received a copy of the *Practice monitor protocol* and this information sheet, and understand the functions and requirements of a practice monitor detailed in these documents
- you are aware of the nomination, consent to the nomination and are willing to act as a practice monitor
- you are not a patient of the practitioner, nor are you in a social or familial relationship with the practitioner
- you were not in a direct employment or contractual relationship with the practitioner before the practice monitor conditions were imposed
- you were provided by the practitioner with a full copy of the conditions imposed on the practitioner's registration, and you satisfy any additional criteria outlined in the Schedule of Conditions regarding the nomination of a practice monitor
- you were provided by the practitioner with a full copy of the most recent document stating the reasons for the Health Ombudsman imposing conditions on the practitioner's registration, or the tribunal referral notice
- you agree to participate in a discussion with monitoring staff of the Office of the Health Ombudsman about the functions and requirements of the practice monitor role before commencing as a practice monitor, and as needed throughout the duration that you act in the role of practice monitor
- you agree to participate in scheduled meetings at the approved practice location/s with monitoring staff of the Office of the Health Ombudsman to ensure implemented processes comply with the requirements of this protocol and the practitioner's conditions.
- you understand that, if you are approved by the Health Ombudsman to act as a practice monitor for the practitioner and you knowingly breach a requirement of the *Practice monitor protocol* – for example, provide false or misleading information to the Office of the Health Ombudsman – you may be subject to disciplinary action under provisions of the National Law and the *Health Ombudsman Act 2013* (see footnote for an example of action taken)<sup>6</sup>.

Your acknowledgement of the nomination must be accompanied by your curriculum vitae and a certified copy of your driver's licence, passport or other valid photographic identification that includes a sample of your signature.

### **What if I don't meet the criteria for a practice monitor?**

In limited circumstances, individuals who do not meet each specified criteria may be approved to act as practice monitors. Where a proposed nominee does not meet the above criteria, the practitioner will need to

<sup>4</sup> Practice monitors must not have any conditions on their registration arising from a health, conduct or performance complaint. In some circumstances, practitioners who have conditions/notations imposed arising from a registration decision may be considered.

<sup>5</sup> Health Practitioner Regulation National Law, as in force in each state and territory (the National Law)

<sup>6</sup> <https://www.nursingmidwiferyboard.gov.au/News/2019-02-15-chaperone-doctor.aspx>



contact monitoring staff of the Office of the Health Ombudsman for details of the process for nominating persons who do not meet this criteria.

### **What is the process to be approved to act as a practice monitor?**

Once the approved *Nomination of practice monitors* and *Practice monitor acknowledgement* forms have been received, you will be contacted by monitoring staff of the Office of the Health Ombudsman to discuss the nomination and confirm your suitability to act as a practice monitor for the practitioner.

The nomination will then be considered by the Health Ombudsman or the Health Ombudsman's delegate and, if approved, you and the practitioner will be notified of this decision by monitoring staff.

You are not permitted to act as a practice monitor prior to receiving this notification.

### **Practice monitor log**

The practitioner must maintain a *Practice monitor log* (the log) on the template provided by the Office of the Health Ombudsman, detailing every contact with any patient requiring a practice monitor under the practitioner's conditions, confirming the continual presence and direct observation of a practice monitor for the entire contact. The log must be completed in the format provided and is subject to change.

Each entry must be created at the beginning of the consultation and completed at the conclusion of the consultation with the practice monitor's signature.<sup>7</sup>

The practitioner must also sign each completed page of log book entries confirming the accuracy of all recorded entries.

By signing the log, the practice monitor acknowledges the patient was provided with information regarding the practice monitor requirement and signed the *Patient information and acknowledgement form* prior to commencing the contact. In some circumstances the practice monitor log format may also require a patient signature. If so, this will be clearly identified in the log template.

The practitioner is responsible for providing each completed log to the Office of the Health Ombudsman.

### **Important note about prescribing for a patient and/or using a communication device**

If a practitioner writes a prescription for a patient that requires a practice monitor, and the patient has not attended a physical consultation<sup>8</sup> with the practitioner at an approved practice location, the writing of the prescription is still considered to be 'contact' with the patient. The practice monitor must therefore be present for the writing of the prescription and the details of the contact must be recorded in the log. Prescriptions can only be written by the practitioner when the practitioner is at the approved practice location.

Similarly, if the practitioner uses a communication device to contact a patient that requires a practice monitor, the patient must be informed at the commencement of the contact of the requirement for a practice monitor to be continuously present to observe the entire contact. The practice monitor must provide this information to patients, including that the practice monitor will be able to hear (and see, if the communication device has video capabilities) both the practitioner and the patient throughout the entire contact. The contact must not proceed if the patient demonstrates any reluctance to proceed with the contact in the presence of the practice monitor. Details of the contact must be recorded in the log.

<sup>7</sup> Signatures may be electronic if approved by the Office of the Health Ombudsman

<sup>8</sup> Please refer to [www.ahpra.gov.au](http://www.ahpra.gov.au) for the Code of Conduct specific to your registration, and for best practice guidelines, in relation to the issue of prescribing to a patient without a consultation.



### **What should I do if a patient is reluctant or unwilling to have a practice monitor present?**

Practice staff nominated by the practitioner will be responsible for advising patients of the requirement for a practice monitor at the time of booking an appointment or, in the case of an unbooked appointment, at the time of presenting at the practice seeking an appointment with the practitioner.

However, if a patient has agreed to proceed with the contact in the presence of a practice monitor and then refuses or demonstrates any reluctance to have a practice monitor present, the contact must not go ahead or, if started, must cease immediately. Where practical the patient should then be offered an appointment with another practitioner.

### **What should I do if I become aware the practitioner has had contact with a patient (of an identified patient group) without the presence of a practice monitor?**

Any patient contact that occurs between the practitioner and a patient of an identified patient group without the presence of a required practice monitor will be considered a breach of the practice monitor condition and may constitute behaviour for which the Health Ombudsman may take action, including more restrictive immediate action.

As an approved practice monitor, you have a responsibility to notify the Office of the Health Ombudsman of any suspected or confirmed non-compliance by the practitioner with the practice monitor condition or if you have any concerns regarding the appropriateness of any contact between the practitioner and the patient.

Similarly, you should contact the Office of the Health Ombudsman if you feel personally vulnerable, intimidated or threatened while acting as a practice monitor.

### **Obligations as a registered health practitioner**

If you are a registered health practitioner, you should be aware that your obligations for mandatory reporting under the National Law remain applicable when you are acting as a practice monitor.

### **Contact details**

If you have any concerns or questions, or require clarification in any way of the practice monitor role and responsibilities, please contact monitoring staff of the Office of the Health Ombudsman on 07 3158 1329 or at [monitoring@oho.qld.gov.au](mailto:monitoring@oho.qld.gov.au).