



Does this protocol apply to me?

This protocol applies to any registered health practitioner¹ against whom the Health Ombudsman has taken immediate registration action by imposing chaperone conditions on their registration requiring that:

- a chaperone be present when the practitioner has contact with all or certain patient groups
- the practitioner must comply with this chaperone protocol.

Why has the Health Ombudsman imposed chaperone conditions?

The main objective of the *Health Ombudsman Act 2013* (the Act) is to protect the health and safety of the public.² To assist in achieving this, the Health Ombudsman may take immediate action in relation to a registered practitioner if the Health Ombudsman reasonably believes that:

- because of the practitioner's health, conduct or performance, they pose a serious risk to persons *and*
- it is necessary to take immediate registration action to protect the health or safety of the public³ *or*
- it is otherwise in the public interest.

In circumstances where immediate registration action is necessary, the Health Ombudsman may suspend or impose conditions on a practitioner's registration, including imposing chaperone conditions.

Chaperone conditions require the presence of a chaperone when the practitioner has contact with all patients or certain groups of patients and are used as an interim protective measure while other action is taken under the Act, such as investigation.

The specific reasons for the Health Ombudsman's decision to take immediate registration action are outlined in the *Notice of Decision—Immediate Registration Action* provided to you, which also included the conditions the Health Ombudsman imposed on your registration.

When is a chaperone required?

Chaperones are required to be physically present and directly observe **all** contact between you and either any patient or certain patient groups. It is important that you are aware that for the purposes of the chaperone conditions, the words *contact* and *patient* have particular meanings.

Contact is not confined to only consultation with a patient, but includes interview, examination, assessment, prescribing for, advising, treating or otherwise seeing a patient, whether this is in person or via a communication device. However, for the purposes of this protocol, it does not include a

¹ *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)*.

² Section 4 of the *Health Ombudsman Act 2013*.

³ Section 58 of the *Health Ombudsman Act 2013*.



communication between the practitioner and the patient that is exclusively for the purpose of informing the patient of the requirement for a chaperone prior to any further contact.

Patient is defined as any individual awaiting, requiring, or receiving the professional services of the practitioner or a registered health practitioner within the same place of practice as the practitioner and any spouse, partner, parent, family member or guardian/carer of this individual.

You should carefully review your conditions to determine which patients require a chaperone.

Your chaperone conditions may specify that a chaperone is required for:

- all patients, or
- a group of patients including
 - patients within a certain age range
 - patients of a certain gender or gender identity
 - patients undergoing particular types of procedures, examinations or assessments.

It is your responsibility to ensure that you have a chaperone present for all patient contact where one is required by the conditions imposed on your registration and that the requirements of this protocol are adhered to.

Any patient contact that occurs between you and a patient in the absence of an appropriate chaperone will be considered a breach of the conditions and may result in further action by the Health Ombudsman, including taking more restrictive immediate registration action.

When should I inform my patients of the need for a chaperone?

Prior to any contact with any patient requiring a chaperone under your conditions, you or an appropriate staff member should inform each patient that a chaperone is required and that if they proceed with the contact, their personal information may be shared with the Office of the Health Ombudsman (OHO).

Where a patient demonstrates any reluctance to have a chaperone present, the contact must not progress or, if already commenced, must cease immediately. If possible, the patient should then be offered an appointment with another health practitioner.

Who may act as a chaperone?

Prior to any contact with any patient requiring a chaperone under your conditions, the patient must be offered the choice of:

- the use of a chaperone of their choice
- the use of a chaperone approved by the Health Ombudsman
- contact with another registered health practitioner.



In some cases, the conditions imposed on a practitioner's registration will require that only a Health Ombudsman approved chaperone can be present during contact with patients. You should carefully review your particular conditions to determine who may act as a chaperone.

Unless otherwise stated in the conditions imposed on your registration, if the patient agrees to the use of a chaperone, they or their legal guardian must be given the OHO's *Patient information and acknowledgement* form and confirm their agreement to have a chaperone by signing and dating the acknowledgement. This must occur *prior* to any contact between the patient and the practitioner.

If the conditions imposed on your registration do not require the patient or their legal guardian to sign and date the *Patient information and acknowledgement* form, it is expected that the patient or their legal guardian will be requested to provide verbal consent and that this consent must be recorded on the patient's medical record.

Chaperone of the patient's choice

Where a patient chooses to use a chaperone of their own choice, that chaperone must be at least 18 years of age⁴, have capacity and be physically able and willing to directly observe **all** contact between the patient and practitioner.

A chaperone chosen by the patient must be given the OHO's *Information and acknowledgement for chaperone selected by a patient* form and confirm their agreement to act in the role by signing and dating the acknowledgement. This must occur *prior* to any contact between the patient and the practitioner.

Chaperones approved in advance by the Health Ombudsman

You are also required to nominate individuals to be approved as chaperones where a chaperone of the patient's choice is not available or not permitted. It is advisable that you obtain approval for a number of chaperones in order to allow for absence or illness.

You should ensure that each nominee meets the following criteria, in addition to any other criteria outlined in your conditions:

1. The nominated chaperone is at least 18 years of age⁵.
2. The nominated chaperone is not your relative or friend.
3. The nominated chaperone is not your direct employee or otherwise in a direct contractual or financial relationship with you⁶.

⁴ Exceptions may apply.

⁵ Exceptions may apply.

⁶ In particular circumstances, where it can be demonstrated that it is not possible to access chaperones who meet the above criteria, individuals who are directly employed by you and/or who are not registered health practitioners may be approved as chaperones. If you consider that such circumstances apply, you will need to provide information to the OHO to support your nomination of a chaperone who does not meet these criteria. Further information may include, but is not limited to, why you have been unable to comply with the chaperone protocol, any steps you have taken to attempt to comply with the chaperone protocol and why the nominee/s is suitable to

4. The nominated chaperone is a registered health practitioner⁷ without restrictions, conditions or undertakings on their registration and has not been the subject of adverse findings in previous disciplinary proceedings.
5. You do not have a treating relationship with the nominated chaperone.

For each nomination, you are required to submit:

1. the OHO's *Nomination of chaperone* form (or *Chaperone nomination submission* form for individuals who do not meet the above criteria)
2. a certified copy of the nominated chaperone's driver's licence, passport or other valid photographic identification that includes a sample of their signature.

You and your nominated chaperone will be notified once the nomination is approved by the Health Ombudsman. The approved chaperone can act as a chaperone from the time this notification is received.

You will be in breach of your conditions if a nominated chaperone acts as a chaperone before they are approved by the Health Ombudsman. This may result in further action being taken by the Health Ombudsman, including taking more restrictive immediate registration action.

Chaperone log

You must maintain a chaperone log detailing every contact you have with a patient where a chaperone is required. You must only use the *Chaperone log* template provided by OHO and, should the template be amended by OHO, you must commence using the amended template when requested by OHO.

An example of a completed *Chaperone log* is included with this protocol.

Requirement to provide chaperone logs

You must provide a copy of all chaperone logs to OHO within five business days of the end of every calendar month, or at such times as requested by OHO.

act as a chaperone to protect public health or safety with specific regard to the complaint that has given rise to the requirement for chaperone conditions.

⁷ See footnote 6.