



## Information and requirements for registered health practitioners

### What are practice monitor conditions

Practice monitor conditions are conditions on the registration of a health practitioner which require the practitioner to have **no contact with any patient of an identified patient group unless in the continual physical presence of a practice monitor approved by the Health Ombudsman**, who must directly observe (see and hear) all contact between the practitioner and the patient.

Examples of identified patient groups may include, but are not limited to:

- all patients
- patients of a particular age or gender
- patients with a particular health condition or history.

### How do practice monitor conditions work?

Practitioners with practice monitor conditions can only practise at Health Ombudsman approved practice locations with one or more approved practice monitors at each practice location.

Upon imposition of practice monitor conditions on a practitioner's registration, practitioners must immediately cease contact with all patients of an identified patient group who require the presence of a practice monitor.

Unless otherwise directed by the Health Ombudsman, the practitioner may continue in all other aspects of practice that does not involve those patients requiring the presence of an approved practice monitor.

Following the Health Ombudsman's approval of one or more practice monitors at each approved practice location, practitioners may return to full practice with two conditions:

- practitioners must only practise at Health Ombudsman approved practice locations, and
- practitioners must not have contact with any patient in the identified patient group without the presence of an approved practice monitor.

### Does this protocol apply to me?

This protocol applies to all registered health practitioners who are subject to a practice monitor condition.

Practitioners should carefully review their schedule of conditions to determine when a practice monitor is required.

It is the practitioner's responsibility to ensure a practice monitor is present for all instances where it is required by the conditions.

## Requirements for approval of practice monitors

**The 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.**

Approval of practice monitors is contingent upon completion of **all** of the following:

- nomination and written approval of no more than four people to act as a practice monitor at each Health Ombudsman approved practice location
- nomination to the Office of the Health Ombudsman of practice staff at each approved practice location responsible for patient booking arrangements
- the nomination being acknowledged and accepted by nominated practice monitors.

## Definitions

**'Practise'** is defined as any role requiring clinical patient contact (including supervision of other practitioners engaged in clinical patient contact), whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in the safe, effective delivery of services in the health care industry. The practitioner may use their professional knowledge to practise in management, administration, education, research, advisory, regulatory or policy development roles that do not involve any patient contact.

**'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.

**'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.

## Nomination of practice locations

Practitioners subject to practice monitor conditions must only practise at approved practice locations. Generally, no more than three locations will be approved.

Practitioners are required to provide the Office of the Health Ombudsman, on the *Request for approval of employment and practice locations* form, the details of **all** locations where they were practising when the conditions were imposed and to nominate, on the same form, no more than three practice locations for approval of the Health Ombudsman as ongoing places of practice.

Unless otherwise directed by the Health Ombudsman, practitioners may continue to practise at the locations where they were practising when the conditions were imposed, provided the *Request for approval of employment and practice locations* form is submitted within the timeframe specified in the conditions on the practitioner's registration. **The practitioner must not, however, have contact with any patient requiring a practice monitor until one or more practice monitor/s have been approved by the Health Ombudsman.**

Following submission of the abovenamed form, the practitioner will receive written notification of the Health Ombudsman's decision regarding the practitioner's continued practise at these locations.

Failure to provide the approved form by the date specified in the practitioner's conditions may result in the Health Ombudsman withdrawing approval for the practitioner to continue practising at the specified location/s.

Except in exceptional circumstances, practice locations where nominated practice staff and practice monitors are not routinely present, such as patients' residences, will not be approved as practice locations.

## Who may act as a practice monitor?

Only individuals approved by the Office of the Health Ombudsman may act as practice monitors. If a practice monitor is not available a practitioner must not have contact with any patient that requires a practice monitor.

## Nomination of practice monitors

Practitioners are required to nominate individuals to be approved as practice monitors. Generally, no more than four practice monitors will be approved at each approved practice location. Practitioners should ensure they obtain approval for a suitable number of practice monitors to cover absences or illness.

Nomination of practice monitors must be completed on the *Nomination of practice monitors* form. Unless otherwise directed by the Health Ombudsman, any individual nominated as a practice monitor must meet the following criteria:

- be a registered health practitioner with at least 5 years post registration experience as a health practitioner
- not have any conditions on their registration<sup>1</sup>, not be subject to investigation or other action under the National Law<sup>2</sup> or *Health Ombudsman Act 2013*
- must not have had an employment, contractual or financial relationship with the practitioner before the practice monitor conditions were imposed
- must not be a relative, friend or patient of the practitioner

Each nomination must be accompanied by the following:

- a. contact details, photographic identification and sample signatures of each and every nominated practice monitor
- b. a copy of each and every nominated practice monitor's curriculum vitae
- c. written confirmation, on the *Practice monitor acknowledgement* form, from each and every nominated practice monitor that they:
  - i. have received a copy of the *Practice monitor protocol* and *Information for practice monitors approved by the Health Ombudsman* and understand the functions and requirements of a practice monitor
  - ii. meet the requirements of the *Practice monitor protocol*
  - iii. have been provided by the practitioner with a full copy of the conditions imposed on the practitioner's registration
  - iv. have been provided by the practitioner with a full copy of the most recent document stating the reasons for the imposed conditions, or the tribunal referral notice
  - v. agree to participate in discussions and meetings with monitoring staff of the Office of the Health Ombudsman about the functions and requirements of the practice monitor role and to ensure implemented processes comply with the requirements of this protocol and the practitioner's conditions.

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<sup>1</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>2</sup> Health Practitioner Regulation National Law, as in force in each state and territory (the National Law)

## What if a nominated practice monitor doesn't meet the required criteria?

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

## What happens if an approved practice monitor fails to comply with this protocol?

Only registered health practitioners may be approved as practice monitors. Should a registered health practitioner agree to act as a practice monitor and knowingly breach a requirement of this protocol – for example, provide false or misleading information to the Office of the Health Ombudsman – the practitioner 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>3</sup>

## Nomination of practice staff responsible for booking appointments

Patients of the identified patient group detailed in the Schedule of Conditions must be told 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.

Practitioners must not provide this information to patients personally and must nominate, on the *Nomination of practice staff* form, staff who will be responsible for making the bookings (the nominated practice staff). The nominated practice staff will be responsible for providing the following information to relevant patients 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:

<Practitioner name> is required to practise in the presence of a practice monitor who will be **physically present** during the entire consultation with <practitioner name>. Would you like to proceed to make an appointment with <practitioner name> and have a practice monitor present, or would you prefer to make an appointment with another registered health practitioner?

If the patient requires additional information before confirming or proceeding with the appointment, the nominated practice staff should specify that the Health Ombudsman has imposed a condition on the practitioner's registration requiring that a practice monitor be physically present to directly observe all contact between <practitioner name> and <identified patient group – e.g. female patients>, however the reasons for the condition are confidential and cannot be disclosed.

## Can a patient refuse an appointment because of the presence of a practice monitor?

Where a patient 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.

## Non-compliance with practice monitor conditions

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

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<sup>3</sup> <https://www.nursingmidwiferyboard.gov.au/News/2019-02-15-chaperone-doctor.aspx>

Generally, practitioners are not permitted to practise at any more than three practice locations, all of which must be approved by the Health Ombudsman. Any practice which occurs outside of an approved practice location, regardless of the presence of a practice monitor during any patient contact, may be considered a breach of the condition and may constitute behaviour for which the Health Ombudsman may take action, including more restrictive immediate action.

## 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 when the practice monitor conditions were imposed and then as amended from time to time.

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>4</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.

Practitioners must provide a copy of the completed log to the Office of the Health Ombudsman at such times as requested by the Office of the Health Ombudsman which may include real time electronic transmission.

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

If a prescription is written for a patient that requires a practice monitor, and the patient has not attended a physical consultation<sup>5</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.

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<sup>4</sup> Signatures may be electronic if approved by the Office of the Health Ombudsman

<sup>5</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.

## Written authorities/acknowledgements

Other authorities/acknowledgements to be submitted by the practitioner to the Office of the Health Ombudsman in support of this protocol are specified in the conditions imposed on the practitioner's registration, including the timeframes within which these must be submitted.