



Chaperone Policy

Date of publication:	April 2013	File Number:	DD10/10878[v5]
		Our Ref:	03/052
Version:	Created February 2003. Previous revisions August 2004, June 2007, October 2009, 13 July 2010, August 2012		
Summary:	This policy sets out the issues to be considered by Council when requiring or approving a chaperone.		
Applies to:	The Medical Council, its Committees and delegates, when requiring or approving a person to act as a chaperone.		
Author:	Medical Council of NSW		
Owner:	Medical Council of NSW		
Related legislation, Awards, Policy and Agreements:	<i>Health Practitioner Regulation National Law (NSW)</i>		
Review date:	April 2018		

Chaperone Policy

PURPOSE

A condition requiring the use of a chaperone may be ordered as a result of Council proceedings pursuant to section 150 of the *Health Practitioner Regulation National Law (NSW)*. The imposition of such conditions is an interim protective measure pending finalisation of the matter that necessitated the conditions being imposed.

When conditions requiring the use of a chaperone are imposed upon a practitioner's registration, the Council, its Committees and Delegates, must apply this policy when requiring or approving a person to act as a Council Approved Chaperone.

BACKGROUND

From time-to-time the Council becomes aware of a medical practitioner facing criminal charges in the nature of sexual assault. In addition, complaints alleging serious sexual misconduct may be made which may not result in criminal charges. As well as referring a complaint to the Health Care Complaints Commission for investigation, the Council's usual practice is to seek information about the nature of the practitioner's practice of medicine and to obtain any available information about the matter and other relevant criteria, in order to consider whether or not urgent interim action should be taken.

The Council has power to take action in the context of its jurisdiction to protect the public. This is done by convening urgent proceedings pursuant to section 150 of the *Health Practitioner Regulation National Law (NSW)*. The delegates appointed to conduct the proceedings must impose conditions on the practitioner's registration or suspend the practitioner if they are satisfied that it is appropriate to do so for the protection of the health or safety of any person or if satisfied that the action is otherwise in the public interest. This action can also offer protection to the practitioner whilst a complaint is investigated.

Prior to the Court of Appeal decision in *Health Care Complaints Commission v Litchfield* Matter No Ca 40748/96 [1997] NSWSC 297 (8 August 1997) (*Litchfield*), the use of a chaperone was ordered as a public protective measure both on an interim basis and after the completion of a disciplinary hearing in the Medical Tribunal or a Professional Standards Committee. The *Litchfield* case however established that if a practitioner needed a chaperone to ensure the ongoing safety of the public then the practitioner should not be practising medicine. Since that decision the imposition of a condition requiring the practitioner to have a chaperone should be limited to occasions where it is ordered as an interim measure only.

The Medical Council has a set of template conditions, developed and refined over many years, which assist the delegates of a section 150 inquiry in drafting a condition that provides for optimal protection and monitoring.

REQUIREMENTS TO BE CONSIDERED BY COUNCIL OR DELEGATES WHEN REQUIRING OR APPROVING A CHAPERONE

The following criteria are required unless overridden by the Council, Committee or delegates of Council considering a particular matter.

1. A chaperone must be a Council-approved medical practitioner or a nurse, nurse practitioner, or enrolled nurse, who is currently registered in the general or specialist category and is therefore accountable to independent professional standards.
2. It is the Council's view that the chaperone cannot be a relative or spouse of the practitioner or be involved in a personal relationship with the practitioner.
3. It is the Council's view that the Council-approved chaperone cannot be another patient of the practitioner or of the practitioner's practice.
4. Consideration should be given as to whether the Council-approved chaperone should be the same gender as the at-risk patient group.
5. A chaperone will most effectively fulfil the role if the practitioner is required to provide the chaperone with a copy of the relevant conditions on his/her registration and the practitioner is required to ensure that the chaperone understands the requirements of the role.
6. The practitioner must be required to ensure that the Chaperone is present for the whole of the consultation and that the chaperone does not leave the room while the patient is with the practitioner.
7. The practitioner must be required to ensure that the chaperone signs and dates the Patient Log at the time of the consultation as evidence of the fact the chaperone was present throughout the entire consultation. This constitutes the Chaperone Report which the practitioner must forward to the Council on a monthly basis.
8. The condition/s are monitored by the Council by comparing Medicare Australia data against the practitioner's declared Chaperone Reports, so practitioner authorisation for Medicare data to be provided to the Council is required.
9. A requirement that the practitioner must notify their employer or practice partner/s (or any subsequent employer or partner) of chaperone conditions will facilitate chaperone arrangements within the practice as well as ensuring that they are put in place.

IMPLEMENTATION

- Council delegates must consider the above requirements when requiring or approving a chaperone.
- Delegates are encouraged to provide this policy to practitioners whose registration may become the subject of conditions requiring the use of a chaperone.

ATTACHMENT

- Patient log / chaperone report.
- Chaperone nomination form.

PATIENT LOG / CHAPERONE REPORT

To comply with Privacy Laws, **begin from the bottom of the page** and for each new entry, ensure all previously completed details are obscured from sight, e.g. cover with a sheet of thick paper.

DR _____ MONTH _____ YEAR _____

NB: THE CHAPERONE MUST REMAIN IN THE ROOM WHILE THE PATIENT IS WITH THE PRACTITIONER.

DATE	TIME	PATIENT'S FULL NAME (PRINTED) AND SIGNATURE (at time of consultation)	CHAPERONE'S FULL NAME (PRINTED) AND SIGNATURE (at time of consultation)
18			
17			
16			
15			
14			
13			
12			
11			
10			
9			
8			
7			
6			
5			
4			
3			
2			
1			

CHAPERONE NOMINATION FORM

(this form should be sent directly to the Council’s Monitoring Section by the nominated chaperone)

Dr _____ has nominated me to act as his/her chaperone.

(please tick the following that apply)

- I am aware of the public conditions on Dr _____’s registration.
- I have read the Council’s Chaperone Policy.
- I am a registered practitioner. My AHPRA registration number is _____.
- I am not the subject of a current conduct, health or performance investigation or proceedings.
- I do not have conditions imposed on my registration.
- I am not a relative of the practitioner.
- I do not have a social or treating relationship with the practitioner.
- I am female / male (please circle as applicable)
- I am over the age of eighteen years.
- I have not have been the subject of an adverse finding in previous disciplinary proceedings.
- I consent to undertaking the role of chaperone.
- I understand my responsibility to be present during any examination or consultation by Dr _____, unless the patient already has a chaperon present, as required by the conditions on Dr _____’s registration.
- I will sign and date the Patient Log at the time of the consultation as evidence of the fact that I was present throughout the entirety of each consultation.
- I will immediately notify the Medical Council if I have any concerns about Dr _____’s inappropriate conduct during a consultation or compliance with the conditions.
- I understand that the Council may withdraw a chaperone’s approval where a chaperone ceases to meet the criteria set out in the Policy.
- I have attached a submission (optional)

Signed: _____

Dated: _____

Print Name: _____ Title: _____ Contact Ph number: _____	Address: _____ _____ _____
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