

Avant factsheet:

Mandatory notifications about health practitioners

Quick guide:

1. Health practitioners, employers and education providers are legally obliged to notify Ahpra of other practitioners whose conduct may be placing the public at a serious risk of harm.
2. Impairment, intoxication, a significant departure from accepted professional standards and sexual misconduct must be reported.
3. Practitioners notifying Ahpra will be protected from liability so long as they act in good faith.

Note: The information in this factsheet is for health practitioners, employers and education providers who are not in a treating relationship with the other health practitioner.

If you develop a concern about another health practitioner while you are treating them, please refer to Avant's factsheet: *Mandatory notifications for treating practitioners*.

Who is required to make mandatory notifications?

In order to protect the public, all registered health practitioners, employers and education providers are required by law to notify Ahpra if they believe a health practitioner may be not practising safely by engaging in particular types of conduct in connection with their practice. The obligation to notify applies to the 15 regulated health professions, not only doctors. This means that you may be required to make a notification about a health professional who is not a doctor.

Two key issues – a 'reasonable belief' about 'notifiable conduct'

Before making a mandatory notification, you must form a 'reasonable belief' that another practitioner is engaging in 'notifiable conduct'.

Have you formed a reasonable belief?

A reasonable belief should be, as far as possible, based on actual, known events rather than anecdotal accounts. Speculation, gossip, rumours or innuendo would not be a reliable basis for a reasonable belief.

This can be difficult to assess objectively, so it can be helpful to consider your personal knowledge of the facts and circumstances that have led to your concern. You can rely on your experience and expertise. Sometimes it is also helpful to take a step back and ask whether another reasonable person, acting in good faith, would have formed the same belief.

What conduct do you need to report?

Notifiable conduct is defined in legislation and includes the following:

- practising with an impairment;
- practising while intoxicated;
- significant departure from professional standards; and
- sexual misconduct.

Health practitioners and educators are also obliged to report students on the grounds of impairment.

Impairment

Ahpra must be notified if a health practitioner is placing the public at risk of substantial harm by practising with an impairment. A risk of substantial harm is a high threshold to meet.

This notification requirement could apply to any physical or mental impairment, disability, condition or disorder including substance abuse or dependence. Notification is only required if the condition detrimentally affects or is likely to detrimentally affect the practitioner's capacity to practise their profession. The condition does not need to be reported if there are effective controls in place to manage it and reduce the risk and severity of harm to the public. Controls could include treatment, sick leave or a break from practise, supervision or a modified scope of practice.

Non-treating practitioners, employers and educators in all states and territories are required to make a mandatory notification in relation to impairment.

When practitioners treat other practitioners, the circumstances they need to notify Ahpra about an impairment are more limited. Treating practitioners in Western Australia are exempt from the requirement. Please refer to Ahpra's Guidelines: Mandatory notifications about registered health practitioners (Guidelines for mandatory notifications) or Avant's factsheet: Mandatory notifications for treating practitioners, for more information.

Health practitioners and educators are also obliged to report students on the grounds of impairment. If you form a reasonable belief that a student, undertaking clinical training with an impairment, is placing the public at substantial risk of harm, you must notify Ahpra.

Intoxication

Practising while intoxicated by drugs or alcohol is also notifiable conduct. The relevant consideration is whether the practitioner's ability to practise their profession is impaired or affected adversely due to intoxication. Intoxication is given its ordinary meaning and drugs are not limited to illicit substances and can include prescribed and other medicines.

Note also the concern must relate to the practitioner's ability to practise, so behaviours outside of work would only be notifiable if you formed a reasonable belief that the practitioner had gone on to practise while still intoxicated.

Significant departure from accepted professional standards

Ahpra also needs to be notified if a practitioner is placing the public at risk of harm by practising in a way that departs significantly from accepted professional standards.

Conduct is reportable on this ground if it is a serious deviation from accepted professional standards which should be obvious to a reasonable practitioner. It does not include minor variations or professional differences of opinion over clinical or treatment decisions, if accepted professional standards are met. Accepted professional standards include (but are not limited to) formal documents and guidelines such as the Medical Board of Australia's Code of Conduct, clinical practice guidelines and hospital guidelines.

Sexual misconduct

You must report a health practitioner if you form a reasonable belief they have been or are engaging in sexual misconduct in connection with their practice.

Notifiable conduct includes sexual misconduct with a patient under the practitioner's care or a person related to their patient, such as the parent of a paediatric-patient. It applies even if the patient has consented and irrespective of whether the patient initiated the sexual relationship. Sexual activity with a former patient may also constitute sexual misconduct as outlined in Ahpra's Guidelines for mandatory notifications.

Exceptions to the mandatory notification obligations

There are limited circumstances in which a mandatory notification about a health practitioner is not required, including if you:

- know or reasonably believe the notifiable conduct has already been reported;

- are providing legal advice, involved in legal proceedings or are a member of a quality assurance committee or other body, that is bound by legal confidentiality requirements; or
- work for a professional indemnity insurer and become aware of notifiable conduct because of legal proceedings or legal advice arising from the insurance policy.

How am I protected if I make a mandatory notification?

You are protected from legal liability if you make a notification in good faith. That means that you make the notification on reasonable grounds, with good intentions and without malice. Regardless of the outcome of your notification, you cannot be subject to claims such as defamation or breach of privacy. Making a notification is not considered a breach of professional standards.

However, you may be subject to regulatory action if you make a report that is vexatious or not in good faith. A report arising from a mere difference of opinion or motivated by a desire for commercial advantage may be considered to have been made in bad faith.

What happens if I do not make a mandatory notification?

If you do not report notifiable conduct to Ahpra and it is later determined you should have, you may be subject to disciplinary action.

What steps can I take if I am considering making a notification to Ahpra?

If you are considering making mandatory notification, read Ahpra's Guidelines for mandatory notifications, and view Ahpra's other resources to help you make your decision.

You may also consider talking to a senior colleague about the circumstances, being mindful to uphold any privacy obligations you may have to the practitioner.

You can also call Avant's Medico-legal Advisory Service to discuss your circumstances and obligations.

Additional resources

Ahpra - Guidelines: [Mandatory notifications about registered health practitioners](#)

Ahpra - Resources: [helping you understand mandatory notifications](#)

Avant factsheet: [Mandatory notifications for treating practitioners](#)

Medical Board of Australia - Guidelines: [Sexual boundaries in the doctor-patient relationship](#)

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For more information or immediate advice, call our **Medico-legal Advisory Service (MLAS)** on **1800 128 268**, 24/7 in emergencies.