



Council of New South Wales

## CHAPERONE PROTOCOL

### 1. LEGISLATIVE CONTEXT

Section 150 of the *Health Practitioner Regulation National Law (NSW)* (the Law) provides that a Council must suspend a registered health practitioner's or student's registration or impose conditions on a registered health practitioner's or student's registration, if satisfied it is appropriate to do so for the protection of the health or safety of any person or persons (whether or not a particular person or persons) or if satisfied the action is otherwise in the public interest.

Section 150 conditions are interim measures and will remain in force until the matter that led to the Council exercising its protective powers has been finalised or until they are removed by the Council.

### 2. PURPOSE

In the event that a section 150 condition is imposed requiring a practitioner to ensure that a chaperone is present during specified circumstances, Council has endorsed the following protocol and attachments to assist in its implementation and monitoring.

### 3. BACKGROUND

From time-to-time, Councils become aware of a practitioner facing criminal charges of a sexual nature. Additionally, complaints alleging serious sexual misconduct may be made, which may not result in criminal charges. As well as referring such complaints to the Health Care Complaints Commission for investigation, the Council will usually seek relevant information about the nature of the practitioner's practice including his or her complaints history, in order to determine whether or not urgent interim action should be taken under section 150 of the Law.

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 at the completion of disciplinary hearings. However, the Litchfield case established that if a practitioner needed a chaperone to ensure the ongoing safety of the public, then the practitioner should not be practising. Since that decision, the imposition of a condition requiring a practitioner to have a chaperone has usually been limited to occasions where it is ordered as an interim measure to minimize risks pending the outcome of the complaint.



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#### **4. GUIDELINES FOR CHAPERONE APPROVAL**

A chaperone may be

- ❖ a Council-approved registered health practitioner,
- ❖ a Council-approved person who does not have a conflict of interest, or
- ❖ a relative or nominee of the patient.

A chaperone may not be

- ❖ a relative of the practitioner,
- ❖ a patient of the practitioner, or
- ❖ involved in a personal or subordinate relationship with the practitioner.

The practitioner must ensure that the chaperone

- ❖ is present for the entire consultation,
- ❖ is able to observe the practitioner during his/her consultation, examination and treatment of the patient, and
- ❖ signs and dates the Patient Log at the time of the consultation as evidence that the Chaperone was present throughout the entire consultation.

The practitioner must

- ❖ provide the chaperone with a copy of the relevant conditions on his/her registration,
- ❖ ensure that the chaperone understands his/her role,
- ❖ provide the Council with a copy of the Patient Log on a monthly basis,
- ❖ inform their employer/partner(s) of the conditions on their registration, and
- ❖ understand that the cost of any auditing of patient appointments and records to measure compliance with the order, is at the practitioner's expense.

The Council should

- ❖ consider whether the Council-approved chaperone should be the same gender as the at-risk patient group.

#### **5. IMPLEMENTATION**

- ❖ The above guidelines may be varied by the Council at its discretion.
- ❖ These guidelines should be provided to practitioners whose registration has been made the subject of conditions requiring the use of a chaperone.

#### **6. ATTACHMENTS**

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

# OSTEOPATHY COUNCIL of New South Wales

## 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.

Mr/Ms \_\_\_\_\_ MONTH \_\_\_\_\_ YEAR \_\_\_\_\_

**NB:** The Chaperone **must** remain in the room while the patient is with the practitioner.

	Date	Time	Patient's full name (printed) signature	Chaperone's full name (printed) signature
20				
19				
18				
17				
16				
15				
14				
13				
12				
11				
9				
8				
7				
6				
5				
4				
3				
2				
1				

# OSTEOPATHY COUNCIL of New South Wales

## Chaperone Nomination Form

Mr/Ms \_\_\_\_\_ has nominated me to act as his/her chaperone.

(please tick the following that apply)

I consent to undertaking the role of chaperone	<input type="checkbox"/>
I am a registered practitioner. My AHPRA registration number is _____	<input type="checkbox"/>
I am not / have not been the subject of disciplinary proceedings as a health practitioner	<input type="checkbox"/>
I am not a relative of the practitioner	<input type="checkbox"/>
I am not a patient of the practitioner	<input type="checkbox"/>
I do not have a conflict of interest in acting as a chaperone	<input type="checkbox"/>
I understand my responsibility to be present during any examination or consultation where a chaperone is required, unless the patient already has a chaperone present	<input type="checkbox"/>
I will sign and date the Patient Log at the time of the consultation as evidence that I was present throughout the entirety of each consultation	<input type="checkbox"/>
I will immediately notify the Council if I have any concerns about inappropriate conduct during a consultation	<input type="checkbox"/>
I understand that the Council may withdraw a chaperone's approval where a chaperone ceases to meet the criteria set out in the protocol	<input type="checkbox"/>

Print Name	Title	Address

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Once completed, this form should be sent directly to the Osteopathy Council of New South Wales