



3 October 2016

Professor Ron Paterson
Chaperone Review
c/- National Health Practitioner Ombudsman and Privacy Commissioner
GPO Box No 2630
Melbourne, VIC 3001

Via email: ChaperoneReview@nhpopc.gov.au

Dear Professor Paterson

Independent review of chaperones to protect patients

The Australian Nursing and Midwifery Federation (ANMF) welcomes the opportunity to provide comment to the *Independent review of chaperones to protect patients*.

Established in 1924, the ANMF is the largest professional and industrial organisation in Australia for nurses and midwives, with Branches in each State and Territory of Australia. Our core business is the professional and industrial representation of ANMF members and the professions of nursing and midwifery.

Our response represents the views of our membership of over 258,000 nurses, midwives and assistants in nursing employed in a wide range of settings in urban, rural and remote locations in both the public and private health and aged care sectors.

As the largest professional organisation for nurses and midwives in Australia, the ANMF has, on behalf of our members, a genuine interest in, and concern for, matters relating to the regulation and practice of registered health practitioners.

We acknowledge the complexity of the issues relating to the need for and use of chaperones, from time to time, in the clinical setting. The ANMF does not have an official national position statement on the use of chaperones. However, on behalf of our members we offer the comments outlined below, due to the actual and potential involvement of nurses and midwives in the application of this process.

Although the stated focus of this review is to be on medical practitioners, the outcome of the review will impact all regulated health practitioners, not just those in private practice. Consequently, the protocol could be applied to those nurses and midwives who engage in their own private practice, as well as those that are required to function as chaperones to other health practitioners in both private and public health settings.

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Our comments on the use of chaperones to protect patients, are as follows:

- The ANMF consider, as the largest cohort of regulated health practitioners, nurses and midwives are the obvious choice of chaperone in most clinical settings, especially in rural and remote areas.
- We maintain it is never appropriate to use an individual who is not a registered health practitioner, either as a Board approved or patient nominated chaperone, in this circumstance.
- AHPRA, on behalf of National Boards, are required to check an applicant's criminal history during the registration process to ensure only those practitioners who are deemed suitable and safe to practice are granted registration in Australia. Changes to a regulated health practitioner's criminal history must be declared on renewal of registration. Any person who is not a regulated health practitioner, acting as a chaperone, would not be bound by this requirement.
- In accordance with the National Law, regulated health practitioners are required to adhere to their professional codes of ethics and conduct in maintaining privacy and confidentiality of personal health information at all times. Any person who is not a regulated health practitioner, acting as a chaperone, would not be bound by this requirement.
- AHPRA notifications involving allegations of serious misconduct must be given the highest priority for investigation. During such an investigation, clinical interaction should be restricted or prohibited where, for any reason, a timely resolution is not possible. While the person under investigation is entitled to a presumption of innocence, until proven otherwise, such a view should never take precedence over the safety of the recipient of care.
- The ANMF does not condone a system where there is the potential for rogue practitioners to be protected at the expense of safeguarding the health and wellbeing of the community.
- If the person receiving care chooses their own chaperone, the potential exists for this action to increase the risk for the health practitioner of claims being made of a vexatious nature.
- We are concerned that the inherent power imbalance that exists between nurses/midwives and their medical colleagues may be used detrimentally to coerce nurses/midwives to take on the role of chaperone, or, to restrict their ability to effectively fulfill such a role.
- The ANMF does not support the use of video cameras, or any form of recording whether visual or sound, in place of a chaperone. This would be a violation of privacy for the recipient of care, especially where there may be recording of professional intervention.

The foregoing comments are offered to assist the Health Practitioner and Privacy Commissioner in deliberations on the use of chaperones to protect patients where allegations of serious misconduct against a regulated health practitioner, are made, and subsequently investigated.

Should you require further information on this matter, please contact Julianne Bryce, Senior Federal Professional Officer, ANMF Federal Office, Melbourne on [REDACTED] or [REDACTED].

Yours sincerely



Lee Thomas
Federal Secretary