



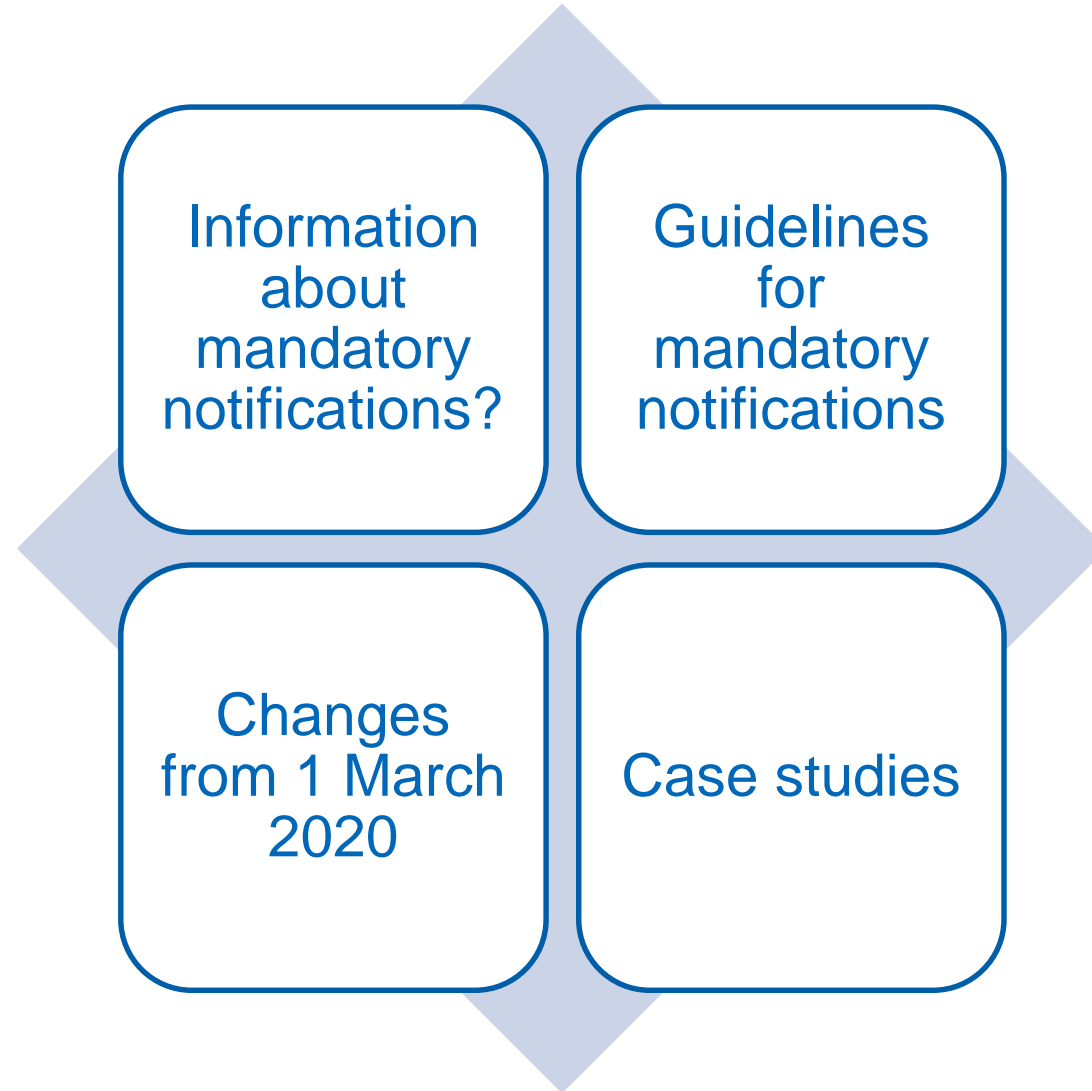
Mandatory Notifications

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Today





Mandatory notifications: What you need to know

What is a mandatory notification?

Notifying us about a concern that a health practitioner may be putting public safety at risk is called a 'notification'.

Anyone can make a voluntary notification about a health practitioner, but by law, registered health practitioners, employers and education providers must make a mandatory notification in some limited circumstances. Mandatory notifications help to protect the public by ensuring that Ahpra and the National Boards are alerted to any potential risks to the public.

What's changed?

On 1 March 2020, the requirements to make a mandatory notification changed. The changes aim to support health practitioners to seek help about their health without fearing a mandatory notification.

To help practitioners understand the changes, we have updated our mandatory notifications guidelines.

To help practitioners understand the changes, we have updated our mandatory notifications guidelines.

Helpful resources for health practitioners

Understanding when to make a mandatory notification and when not to is an important way you can help to protect the public and support your colleagues.

Here you will find resources to help you understand mandatory notifications.

[View resources »](#)

Find out more

Guidelines for mandatory notifications

New guidelines on mandatory notifications have now been released. These are in effect from 1 March 2020.

[Find out more »](#)

Seek the help you need: a health issue rarely needs a mandatory notification

Find out where to seek professional health advice if you need it, because looking after yourself is part of being a health professional.

[Find out more »](#)

Treating a patient or client who is a health practitioner?

Treat your practitioner-patient or refer, and notify only if necessary.

[Find out more »](#)



Guidelines:

Mandatory notifications about
registered health practitioners

March 2020

Overview

Types of risks and reporting thresholds for different groups

Impairment	Intoxication	Departure from standards	Sexual misconduct
Treating practitioners must report practitioners who:			
are practising with an impairment, and place the public at substantial risk of harm <i>See page 10</i>	are practising while intoxicated by alcohol or drugs, and place the public at substantial risk of harm. <i>See page 13</i>	are significantly departing from professional standards, and place the public at substantial risk of harm. <i>See page 15</i>	have engaged in, are engaging in or might engage in sexual misconduct connected to their practice. <i>See page 17</i>
Non-treating practitioners must report practitioners who:			
are practising with an impairment, and place the public at risk of substantial harm. <i>See page 19</i>	are practising while intoxicated by alcohol or drugs. <i>See page 21</i>	by significantly departing from professional standards, and place the public at risk of harm. <i>See page 22</i>	engage in sexual misconduct connected to their practice. <i>See page 23</i>
Employers of practitioners must report practitioners who:			
are practising with an impairment, and place the public at risk of substantial harm. <i>See page 24</i>	are practising while intoxicated by alcohol or drugs. <i>See page 27</i>	by significantly departing from professional standards, and place the public at risk of harm. <i>See page 28</i>	engage in sexual misconduct connected to their practice. <i>See page 29</i>

Changes

What hasn't changed?

- Requirements in the National Law since the commencement of the National Scheme to report:
 - Intoxication (while practising)
 - Impairment
 - Practice outside of accepted professional standards
 - Sexual misconduct.
- Requirements recently revised and commenced March 2020

Who needs to report?

- employers of practitioners,
- registered practitioners
 - *As treating practitioners* (i.e. when the registered health practitioner is your patient)
 - *As non-treating practitioners* (i.e. colleagues who are registered health practitioners)
- education providers (only in relation to students).

What are the changes?

- Consistent arrangements except in WA.
- Limited requirements for *treating practitioners* to make a mandatory notification about a patient who is a registered health practitioner (in cases of impairment, intoxication and substandard practice).
- Enables health practitioners whose practice does not pose risks to patients to seek treatment without fear of being reported.
- Ongoing full requirements to report sexual misconduct.

What's the risk threshold - treating practitioner?

- Threshold for impairment, intoxication and substandard practice is **substantial risk of harm.**
- Focus on **current and future high risks of material harm**, not low-level or insignificant.

Requires a *treating practitioner* to report:

- **Sexual misconduct** – past, present and future risk.
- **Impairment** – place the public at substantial risk of harm.
- **Intoxication** – place the public at substantial risk of harm.
- **Practice outside accepted professional standards** – placing the public at substantial risk of harm.

Who is a treating practitioner?

- “Did I form the reasonable belief in the course of treating the practitioner as my patient?”
- No change from current requirements.

What's the risk threshold – registered health practitioner?

- Threshold for impairment, intoxication and substandard practice is placing the public at **risk of substantial harm**.
- Focus on a moderate or high likelihood of substantial harm (not trivial, insubstantial or moderate harm).

Will require a registered health practitioner to report:

- **Sexual misconduct** – engaging in (connection to practice).
- **Impairment** – places the public at risk of substantial harm in the practitioner's practice.
- **Intoxication** – places the public at substantial risk of harm practicing the profession.
- **Practice outside accepted professional standards** – placing the public at risk of harm..

Intoxication

- Means capacity to practice is impaired by drugs or alcohol.
- Drugs include illicit drugs, prescribed and over the counter medications.
- Only **in relation to practice** – not private life.

Impairment

- A health condition and an impairment are not the same thing.
- Only an impairment if it has a detrimental impact on practice/ practising with a health impairment.
- Report if there is a **substantial risk of harm** (treating practitioner) and **risk of substantial harm** (non-treating practitioner)
- Think about:
 - Nature of the condition
 - Treatment plan in place and its effectiveness
 - Other factors that contribute to risk.

Practice outside professional standards

- **Significant** departure from accepted professional standards.
- Not all professional performance issues or errors are a significant departure from accepted practice.
- Can still have different approaches to treatment/care.

Sexual misconduct

- Relates to people under the nurse/midwife's care or linked to the nurse/midwife's practice.
- Sexual activity with a current patient/woman in care is sexual misconduct regardless of consent.
- Needs to be reported - **no higher risk threshold** for treating practitioner than for colleagues or employers.

Guidelines for mandatory notifications

Update - Guidelines for mandatory notifications

- NMBA, AHPRA and other National Boards preliminary consultation on guidelines completed (closed 31 July 2019).
- NMBA and other National Boards considered feedback from preliminary consultation and developed revised versions of guidelines in August.
- NMBA, AHPRA and other National Boards public consultation on revised guidelines planned from **10 Sept to 5 November 2019**.

Purpose of the Guidelines for mandatory notifications

- Explain mandatory notification requirements as clearly and simply as possible.
- Primary audience potential notifiers
- Assume that most readers will be looking for guidance the need to make a mandatory notification (or not)

Feedback to preliminary consultation

- 56 external stakeholders responded.
- Feedback overwhelmingly positive and supportive.
- Clear, helpful and more workable than the current version.
- Recommendations:
 - Improvements to structure, layout and key areas to highlight e.g.: risk categories, clinical training
 - Separate guidelines for students
 - Mixed support for risk matrices but evidence of challenges understanding the thresholds

Revised Guidelines for mandatory notifications

- Reviewed by Plain English Foundation.
- Risk matrices replaced with charts that list 'factors to consider when assessing risk'.
- Separate guidelines for students.
- Restructured according to the notifier type, so all the relevant information is in a single, obvious place.
- Some repetition in full version however final online version will have links redirecting users to relevant content.

Impairment

Factors to help you assess the risk of harm

Factors	Lower	>	>	Higher
Nature, extent and severity of impairment	Minor	>	>	Wide-ranging and severe
Practice context	Part of integrated team	>	>	Isolated and/or sole practice
How well the impairment can be managed with treatment	Highly receptive	>	>	Unreceptive
Extent of engagement with treatment	Highly engaged and compliant	>	>	Disengaged or non-compliant – likely to work when they shouldn't

Treating practitioner – Intoxication

Factors to help you assess the risk of harm

Factors	Lower	>	>	Higher
Extent and duration of intoxication	Minor and/or short term	>	>	Severe and/or long term
Practice context	Part of integrated team	>	>	Isolated and/or sole practice
Extent to which the event occurs	Isolated incident	>	>	Pattern of behaviour
Extent of self reflection	Highly reflective and insightful	>	>	In denial likely to work again while intoxicated

Awareness campaign

What is the purpose of the campaign?

- Encourage practitioners to seek help when needed.
- Improve understanding of mandatory requirements.
- Prevent unnecessary reporting and help treating practitioners with decision-making.

Who is the campaign aimed at?

- **Practitioners** – to encourage them to seek help if its needed.
- **Treating practitioners** – to provide practical explanation of the changes and prevent unnecessary reporting.
- **Employers** – to understand changes and support the well being of practitioners.

Awareness campaign

- Commence when final guidelines released.
- Case studies, videos and FAQs progressing.
- Profession-specific material where needed.

Case studies

Case study 1 – Illicit drug use outside of the workplace

Summary

- Chloe is an enrolled nurse working in residential aged care.
- Chloe's colleague Megan, who is a registered nurse, has found out through a mutual friend that Chloe sometimes uses illicit drugs at parties.
- Megan is unsure if she is required to make a mandatory report about Chloe.

Case study 1 (continued)

Applying the guidelines

- As Megan is a registered health practitioner and so is Chloe, the *Guidelines for mandatory notifications about registered health practitioners* apply.
- Megan is Chloe's colleague and has never provided a health service to Chloe, so she looks at the section of the guidelines on 'Guideline for non-treating practitioners' and 'When must I report intoxication while practicing?'
- Megan reads the guidelines, which state that:
- *If a practitioner is practising their health profession while intoxicated, this can trigger a mandatory notification. A practitioner is considered to be intoxicated when their reasonable care and skill in the practice of the profession is impaired or adversely affected by drugs or alcohol.*
- *The key issue is that the practitioner has practised while intoxicated, regardless of when they consumed the drugs or alcohol.*

Fact: You do not need to make a mandatory notification if the practitioner is intoxicated in their private life (not when practising their profession), unless the intoxication triggers another concern for mandatory notification.

Case study 1 (continued)

Outcome

- Megan has never seen Chloe intoxicated at work and has no reason to think she is affected by drugs while practising. Megan thinks about the wording of the guideline and whether Chloe's 'care and skill in the practice of the profession is impaired.' Megan thinks that Chloe's professional judgement and the standards of her work seem high. She is always punctual and attentive to her patients.
- Megan decides that she does not need to make a mandatory notification about Chloe, as she does not believe that Chloe is ever intoxicated at work. If Chloe's professional conduct deteriorates or she appears intoxicated at work, Megan may then have to make a mandatory notification.

Case study 2 – Intoxication in the workplace

Summary

- Sophie is an enrolled nurse who often works at a hospital with Brett, a registered nurse. Sophie thinks Brett is a good nurse who cares about his patients and often helps Sophie with practice decisions.
- Sophie knows Brett drinks quite a lot after shifts, but recently she has smelt alcohol on Brett's breath when he begins his shifts. Brett seems slower when making rounds and pays less attention to Sophie and the other enrolled nurses under his supervision. On a recent shift Sophie found him asleep in a chair in an unoccupied patient room.
- Sophie is unsure if she is required to make a mandatory report about Brett.

Case study 2 (continued)

Applying the guidelines

- As Sophie is a registered health practitioner and so is Brett, the *Guidelines for mandatory notifications about registered health practitioners* apply.
- Sophie is Brett's colleague and has never provided a health service to him, so she looks at the section of the guidelines on 'Guideline for non-treating practitioners' and 'When must I report intoxication while practicing?'
- Sophie reads the guidelines, which state that:

If a practitioner is practising their health profession while intoxicated, this can trigger a mandatory notification. A practitioner is considered to be intoxicated when their reasonable care and skill in the practice of the profession is impaired or adversely affected by drugs or alcohol.

The key issue is that the practitioner has practised while intoxicated, regardless of when they consumed the drugs or alcohol.

Fact: Before making a mandatory notification, you must form a 'reasonable belief'. To do so, you generally need direct knowledge (not just a suspicion) of the behaviour that led to the concern. As a practitioner or employer, you are most likely to do this when you directly observe the conduct. Speculation, rumours, gossip or innuendo are not enough to form a reasonable belief.

Case study 2 (continued)

Outcome

- Sophie decides that she has a 'reasonable belief' that Brett has been under the influence of alcohol at work, because of the alcohol she has smelt and the behaviour changes she has witnessed. She decides that she is required to make a mandatory notification about Brett, because she believes he has been intoxicated at work.

Case study 3 – Sexual relationship with a vulnerable former patient

Summary

- Sarah is the owner and director of a small family medical centre. She employs several GPs and a nurse.
- Sarah has become aware that one of her employees, Jonathon, is having a sexual relationship with one of his recent former patients. Jonathon treated the patient over several years. The patient has long-standing mental health issues. Sarah believes the relationship to be consensual.
- Sarah is unsure if she is required to make a mandatory report about Jonathon.

Case study 3 (continued)

Applying the guidelines

- As Sarah is an employer of a registered health practitioner, the *Guidelines for mandatory notifications about registered health practitioners* apply.
- As Jonathon's employer, Sarah looks at the section of the guidelines for 'Employers of practitioners,' 'What is sexual misconduct' and 'When must I report sexual misconduct?'
- The guidelines state that:
 - For mandatory notifications, sexual misconduct is:*
 - *in connection with the practice of the practitioner's health profession*
 - *with people under the practitioner's care or linked to the practitioner's practice of their health profession.*
- The guidelines also give clear advice about former patients:
 - Engaging in sexual activity with a person formerly under a practitioner's care after the professional relationship has ended may also be sexual misconduct. This depends on:*
 - *whether the patient or client is vulnerable because of age, capacity or health conditions*
 - *the extent of the professional relationship (for example, a one-off treatment in an emergency department compared to a long-term program of treatment)*
 - *the length of time since the practitioner–patient/client relationship ended.*

Fact: Because of the power imbalance between practitioners and their patients or clients, any sexual activity with a patient or client is sexual misconduct, even with their consent.

Case study 3 (continued)

Outcome

- Sarah takes into account that Jonathon has treated the patient on a semi-regular basis for several years, only ending the professional relationship about three months earlier. Sarah is concerned that the patient was receiving treatment for mental health issues, which puts the patient in a vulnerable position. Sarah thinks carefully about the concept of a 'power imbalance.'
- Sarah decides to make a mandatory notification about Jonathon, because she believes the sexual activity is in connection with his practice of the profession.

Case study 4 – Burnout and anxiety

Summary

- Tien is a surgeon who has begun seeing a clinical psychologist, Shauna, about her problems with anxiety and her stressful work environment.
- Tien rates her stress as ‘very high’ and decides to see a psychologist after experiencing a panic attack at work one morning. Tien is having trouble coping when things go wrong at work.
- Tien and Shauna have agreed on a treatment plan and Tien has said that her anxiety has lessened since she started seeing Shauna.
- Shauna has not had a client who is a registered health practitioner previously. She is concerned that she should make a mandatory report about Tien.

Case study 4 (continued)

Applying the guidelines

- As Shauna is a registered health practitioner and so is Tien, the *Guidelines for mandatory notifications about registered health practitioners* apply.
- Shauna has become aware of Tien's health issues while providing her with a health service. This means the guidelines section for 'treating practitioners' applies.

- The guidelines state that:

You must make a mandatory notification if you form a reasonable belief that your practitioner-patient is placing the public at substantial (very high) risk of harm by practising with an impairment.

To decide if a practitioner-patient's impairment puts the public at substantial risk of harm, consider:

- *the nature, extent and severity of the impairment*
- *what steps a practitioner-patient is taking, or willing to take, to manage the impairment*
- *how well the impairment can be managed with treatment*
- *any other matter relevant to the risk the impairment poses.*

Fact: Not all impairments need to be reported. A practitioner-patient may have an impairment that causes a minor detrimental impact on their capacity to practise but, if it poses only a rare or possible risk to their patients, it does not trigger a mandatory notification. A practitioner-patient may practise with a mental illness, physical health condition or physical illness, but that should not trigger a mandatory notification.

Case study 4 (continued)

Outcome

- Shauna thinks about what impact Tien's anxiety is having on her practice. While Tien has had some anxiety episodes at work, she is continuing to make clear and thoughtful decisions about her patients. Shauna decides she does not need to make a mandatory report about Tien, because her condition is being managed and it does not place the public at substantial risk of harm. If Tien's anxiety was to worsen to the point that she could no longer make safe decisions at work, Shauna may need to consider a mandatory notification.

Case study 5 – Practising with a neurodegenerative condition

Summary

- Beverly is a registered nurse in her early sixties who works in a busy regional hospital and has seen her GP, Gary, for most of her adult life.
- Gary has recently diagnosed Beverly with early onset Alzheimer's disease. He referred Beverly to a specialist who confirmed his diagnosis. Beverly's symptoms so far have been forgetfulness, difficulty in focusing and getting lost in the hospital she has worked at for over 20 years. Beverly has always been a very articulate person but is starting to have trouble finding the right words for things.
- Beverly is in the mild cognitive decline phase but does not yet have dementia, which she may not experience for several years. Gary has advised her to consider retirement in the near future, due to her symptoms of forgetfulness, getting lost and difficulty in communicating precisely.
- Beverly does not want to retire and insists that she can continue working through this stage of her illness. She is refusing to let her employer or family know about her condition.
- Gary is unsure as to whether he needs to make a mandatory notification about Beverly.

Case study 5 (continued)

Applying the guidelines

- As Gary is a registered health practitioner and so is Beverly, the Guidelines for mandatory notifications about registered health practitioners apply.
- Gary has become aware of Beverly's health issues while providing her with a health service. This means the guidelines section for 'treating practitioners' applies.
- The guidelines state that:

You must make a mandatory notification if you form a reasonable belief that your practitioner-patient is placing the public at substantial (very high) risk of harm by practising with an impairment.

To decide if a practitioner-patient's impairment puts the public at substantial risk of harm, consider:

- *the nature, extent and severity of the impairment*
- *what steps a practitioner-patient is taking, or willing to take, to manage the impairment*
- *how well the impairment can be managed with treatment*
- *any other matter relevant to the risk the impairment poses.*

Fact : You need to make a mandatory notification only if your practitioner-patient, by practising with a serious and unmanaged impairment, is placing the public at substantial risk of harm.

Case study 5 (continued)

Outcome

- Gary thinks about whether Beverly's impairment is placing the public at substantial risk of harm. He does not believe Beverly is managing the impairment properly, as she is refusing to let her family and employer know about the condition. While Beverly does not have dementia yet, she has several symptoms including forgetfulness and difficulty in communicating precisely, which Gary believes could be a risk to her patients. Gary believes this risk is compounded by the fact that Beverly's colleagues will not know about her condition.
- Gary decides that if Beverly does not agree to disclose her condition to her employer, he will need to make a mandatory notification because she may be placing the public at substantial risk of harm.

Questions for us?