

Doctors - how to complain

Complaints about doctors in Victoria can be made to the Australian Health Practitioner Regulation Agency (AHPRA), which supports the Medical Board of Australia in protecting the public. If you feel uneasy about the conduct of your doctor, this may be a warning sign that something is wrong and that professional boundaries may be being crossed.

Patients should trust their own judgement, respect their own feelings and, when in doubt, talk to someone – a trusted friend, a family member or another healthcare professional such as a nurse, social worker or other doctor. Raising the issue with the doctor at the time may clarify the situation or prevent a problem from developing.

All doctors practising in Victoria must be registered with the Medical Board of Australia. The Australian Health Practitioner Regulation Agency (AHPRA) helps the Medical Board protect the public by helping to administer the National Law, which underpins the National Registration and Accreditation Scheme.

There are 10 health professions in this national scheme, including chiropractic, dental, medical, nursing and midwifery, optometry, osteopathy, pharmacy, physiotherapy, podiatry and psychology. There is a National Board for each profession, which sets the standards and policies for their profession that all registered health practitioners must meet.

AHPRA supports each of the National Boards and helps them meet their responsibilities under the National Law. AHPRA has offices in each state and territory and is a single point of contact for anyone in the community with a concern about the professional conduct, performance or health of a registered health practitioner.

The doctor-patient relationship

Good medical practice depends on trust between doctors and patients and their families. Patients are often vulnerable, especially when their medical care makes it necessary for them to reveal themselves intimately to their doctor, physically or emotionally.

The doctor-patient relationship can lead some patients to depend emotionally on their doctors. Patients give their doctor access to their homes and private thoughts, and must be able to trust their doctor.

The Medical Board of Australia has issued *Good Medical Practice: a Code of Conduct* for doctors in Australia.

The signs of good medical practice

A doctor should:

- Explain to the patient what will happen during a medical examination and make sure that the patient understands and agrees to this
- Allow a patient to undress for an examination in private and provide suitable covering, such as a sheet, during the examination
- Use gloves when conducting internal examinations
- Ask for the patient's permission if other people, including medical students, are to be present during an examination
- Offer the presence of a chaperone during intimate physical examinations, if this would make the patient feel more comfortable
- Treat patients equally, regardless of their sexual orientation.

Sexual or improper emotional relationship

It is always wrong for a doctor and a patient to enter into a sexual or an improper emotional relationship. It is also wrong for a doctor to enter into a relationship with a former patient or a close relative of a patient, if this breaches the trust the patient placed in the doctor. The nature and length of the previous doctor-patient relationship is just one factor that will determine whether a later personal relationship is ethical.

Ethical responsibilities of doctors

Doctors must maintain a strict boundary between actions taken for the good of the patient and actions intended to gratify their own sexual desire. These rules apply to male and female doctors in their dealings with male and female patients. A sexual or an improper emotional relationship, even if the patient is a consenting adult, may cloud the doctor's judgement and make them less objective. As a result, the quality of care the doctor provides for the patient may be compromised.

A doctor has a professional responsibility not to enter into a sexual or improper emotional relationship with their patients. If a patient seeks such a relationship with their doctor, the doctor must tell the patient this can't happen and might advise the patient to see another doctor. If a doctor abuses a patient's trust by crossing this boundary, they are acting unprofessionally and should be reported to the Board.

If the allegations are substantiated, the Medical Board of Australia will take disciplinary action. Sexual assault should be reported to the police.

The danger signs

A doctor should not:

- Discuss his or her own sexual problems or fantasies
- Make unnecessary comments about a patient's body or clothing, or make other sexually suggestive comments by way of sexual innuendo or jokes
- Ask questions or make comments about a patient's sexual performance unless this is relevant to the patient's problem or the doctor has explained why it is necessary to discuss the matter
- Request irrelevant or unnecessary details of a patient's sexual history or sexual performance
- Attempt to go out with or otherwise enter into a sexual relationship with a patient.

Crossing professional boundaries

Professional boundaries are crossed when any interaction of a sexual nature occurs between a doctor and a patient, or an immediate family member of the patient.

There is a wide range of behaviour that is considered unprofessional sexual conduct including:

- The use of inappropriate language
- Inappropriate touching
- Touching any part of the patient's body when the patient has indicated that they don't want to be touched. Patients may change their mind during an examination – the examination should stop as soon as the patient indicates this to the doctor
- A doctor making sexual advances to, or engaging in sexual intercourse with, a patient – even if the patient believes this to be acceptable at the time.

Disciplinary action may be required

The Australian Health Practitioner Regulation Agency investigates complaints against doctors on behalf of the Medical Board of Australia. The Board has the power to take action to protect the public and to ensure high standards of conduct are maintained by medical practitioners.

The operations of the Board are governed by the National Law, which sets out the disciplinary powers available to the Board or to the independent tribunals that hear allegations of the most serious unprofessional conduct.

Disciplinary powers available to the Board and the tribunal include:

- In serious cases of professional misconduct, the tribunal has the power to cancel or suspend a doctor's medical registration.
- When the allegations are about less serious matters, the Board may impose conditions, limitations or restrictions on the doctor's registration, impose a fine, require the doctor to undergo counselling or undertake further education, caution the doctor or issue a reprimand.

Investigations by AHPRA

All complaints to the Australian Health Practitioner Regulation Agency are treated seriously and are fully investigated by male and female investigators trained to deal with complainants in a sensitive and confidential way.

Investigations are tailored to each case and the National Board decides what, if any, action should be taken as a result of the investigation. More information about investigations and the powers of the Board are published on the AHPRA website. The websites for each National Board are accessible from there.

Contacting AHPRA

If you feel that professional boundaries have been crossed and are concerned about a doctor's conduct, it is simple to contact AHPRA for help. Telephone 1300 419 495, lodge a notification online or visit the Australian Health Practitioner Regulation Agency website for more information.

Where to get help

- Australian Health Practitioner Regulation Agency Tel. 1300 419 495
- Centres Against Sexual Assault (CASA) Tel. 1800 806 292 or (AH) (03) 8345 3495
- National Sexual Assault, Domestic Family Violence Counselling Service (Australia) Tel. 1800 737 732 – free telephone counselling hotline (24 hours, 7 days)
- 1800RESPECT – for real-time online counselling.

Things to remember

- The primary role of the Medical Board of Australia – and each National Board – is to protect the public. AHPRA helps the Boards to do this by administering the National Law as part of the National Registration and Accreditation Scheme.
- All doctors practising in Victoria must be registered with the Medical Board of Australia.
- If a patient feels uneasy about the conduct of their doctor, this may be a warning sign that something is wrong and that professional boundaries may be being crossed.

This page has been produced in consultation with, and approved by:

Australian Health Practitioner Regulation Agency (AHPRA)

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