

Reporting concerns about another doctor

If you have a reasonable belief that another doctor may pose a risk to patient safety, you have an ethical responsibility to raise that concern. In the first instance the concern should be raised directly with the doctor involved (if possible), then if required, internally within an organisation, and/or externally with MCNZ or the HDC. In making a decision about who to raise the concern with, you should consider what the most effective and proportionate approach is.

Raising concerns directly with the doctor

The principal focus in raising a concern is to minimise the risk of harm to patients. While it will be important to find out the facts as best you can, you will also need to bear in mind the need to minimise delay.

If it is possible to raise concerns with the doctor involved (and you feel comfortable doing so), this is the first step to take. MCNZ recommends outlining the concerns you have, the basis for your concerns and the perceived impact of the doctor's actions or behaviour. The conversation with the doctor should be documented carefully and include the doctor's response.

It is possible that such a conversation may not be well-received; the doctor could become defensive or simply continue to act in an unsafe way. (Indeed, they may continue to act unsafely even if the conversation is received well). In such circumstances, it may be appropriate to raise your concerns internally, or to go directly to MCNZ, or the HDC.

Raising concerns internally

If your organisation has a procedure or policy for reporting concerns then that procedure should be followed. (Note that doctors in management roles are obliged to ensure appropriate procedures are in place for such concerns to be raised). The concern should also be raised with someone in a senior position such as your manager or an appropriate senior colleague. If you are practising under supervision, your concerns should be raised with your supervisor. Again, such conversations including any steps taken, should be documented.



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Raising concerns externally

It may not always be possible or appropriate to take the above steps, for example where the doctor about whom you have a concern is in a senior position and you feel unable to raise the matter without fear of repercussion or risk to your own safety, or the risk to patient safety is sufficiently serious that an external body needs to be alerted immediately. Alternatively, it may be that after taking the above steps you still have a reasonable belief that the doctor poses a risk to patient safety. In such situations, an external notification will need to be made.

If the concern is about another doctor's conduct, competence, or health posing a risk of harm to patient safety, you should notify MCNZ. If the concern relates to the care that another doctor has provided to a particular patient, the HDC should be notified.

Raising concerns with MCNZ

A notification to MCNZ may be required where a doctor has concerns about another doctor's competence, professionalism, sexual misconduct, or health.

The Health Practitioners Competence Assurance Act 2003 (the Act) specifically provides for notifications about another doctor's competence or health:

- **Competence, section 34(1):** if you have reason to believe that another health practitioner may pose a risk of harm to the public by practising below the required standard of competence, a written notification may be made to the Registrar. (It should be noted that if you are an employer and an employee who is employed as a health practitioner resigns or is dismissed for reasons relating to competence, you must notify the Registrar).

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- **Health, section 45:** if you have reason to believe that a health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition, you must notify MCNZ in writing. This applies to doctors, a person employing a doctor, a person in charge of an organisation that provides health services, or a medical officer of health. It also applies to a person in charge of an education programme who has concerns about a student. Mental or physical condition is defined as “any mental or physical condition or impairment; and includes, without limitation, a condition or impairment caused by alcohol or drug abuse”. To assist in determining whether your concerns constitute “reasonable belief” in relation to a notification about another doctor’s health, MCNZ has provided a list of questions to ask yourself. The list can be found here: **How do I decide whether my concerns are sufficient to notify the Council?**

A doctor making a notification under sections 34(1) or 45 is protected against civil or disciplinary proceedings, provided they have acted in good faith. For guidance on professionalism and sexual misconduct, MCNZ has issued statements on **Unprofessional behaviour** and **Sexual Boundaries in the doctor-patient relationship**.

Notifications are received either by the Registrar or MCNZ’s Health Team, who will discuss the situation with the person who made the notification, including what action may be taken (although for confidentiality reasons there may be limits on how much information can be shared from that point onwards). The doctor involved will then be informed. Usually they will be told the name of the doctor who made the notification to MCNZ.

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Raising concerns with the HDC

Concerns about the care another doctor has provided to a particular patient are properly raised with the HDC, which will then follow its usual process when dealing with a complaint. Before any notification to the HDC, you should consider the patient's wishes and how they would like their concerns to be addressed; although the patient's wishes (if known) may not be determinative of whether or not you should proceed with the notification.

If you are insured with NZMII and are considering making a notification in respect of a fellow practitioner, depending on the circumstances guidance may be available from NZMII. If you are insured with NZMII and are the subject of a notification by a fellow practitioner, contact NZMII immediately.

Contact Us

NZMII are here to help!

Contact us if you have any questions about your medical indemnity cover.

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