



What to do when you have concerns about another doctor

Key points

Sometimes a doctor's conduct, competence or health can compromise patient safety, or undermine the public's trust and confidence in the medical profession.

All doctors have an ethical responsibility to protect patients from any risk of harm that another doctor may pose.

Summary of what to do when you¹ have concerns about another doctor:

- Find out the facts, but do not delay in raising the issue in order to minimise the risk of harm to patients.
- Where possible, raise your concerns directly with the doctor involved.
- Document your actions in relation to your concerns, and the doctor's response.
- Sometimes the concerns will need to be escalated within an organisation and/or to an external organisation, even if the doctor responds appropriately and professionally to your feedback. Follow the organisation's procedure for reporting concerns.
- If you remain concerned that another doctor's conduct, competence or health might pose a risk of harm, you should notify Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand (Council).
- If you have concerns about the standard of care another doctor provided to a patient, you should contact the Health and Disability Commissioner (HDC).

About this statement

1. A doctor's conduct, competence or health can affect patients and their family/whānau, those the doctor works with, and the wider medical profession, and can sometimes compromise patient safety. As patient safety is paramount, you have an ethical responsibility to protect patients from the risk of harm that another doctor may pose.
2. The purpose of this statement is to:
 - a. outline the different types of concerns that could arise about another doctor, and the appropriate options for raising these concerns internally and/or externally
 - b. outline when you should notify Council of your concerns about another doctor's conduct, competence or health.
3. The guidance in this statement is not exhaustive, so you will need to exercise your judgement when applying it to your situation. If you are unsure what you should do, you should seek advice.

¹ Unless stated otherwise, our use of 'you' or 'your' in this statement refers to a doctor who raises concerns about another doctor or health practitioner.

Factors to consider if you are unsure whether to act on your concerns about another doctor

4. It can be difficult to know what to do when you have concerns about another doctor. You may worry that raising your concerns could cause problems for other colleagues, impact on working relationships and on your career, or result in a complaint about you.
5. However, you need to remember the following principles:
 - a. patient safety comes first; you have an ethical responsibility to protect patients from the risk of harm that another doctor's conduct, competence, or health may pose
 - b. even if your concerns turn out to be unfounded, it is still appropriate to act on them if you do so based on reasonable belief.
6. Doctors in management roles have additional responsibilities to ensure that there are appropriate procedures in place for staff to raise their concerns, and that these are known to staff who may need to use them. These procedures should be fair, objective, proportionate, and protect staff from repercussions.

Different approaches to consider when raising concerns about another doctor

7. In this section, we outline a tiered approach for raising concerns about another doctor. There may be different levels of action open to you, so consider the best way to raise your concerns and what an effective and proportionate approach would be.
8. You should familiarise yourself with the systems and processes for raising concerns in your organisation and in any external organisations² that you may need to involve.
9. Raise your concerns promptly, even if you do not have all the required information. This allows issues to be addressed before they develop further and cause possible harm to patients.

Raising concerns directly with the doctor involved

10. If you have concerns about a doctor, consider raising your concerns directly with the doctor in the first instance if you are comfortable doing so.³ Be constructive in your approach and manner of communication. Outline the concerns you have, the basis for your concerns and the perceived impact of that doctor's actions or behaviour.
11. Some doctors may find feedback hard to receive and may become defensive. If the doctor does not respond to your concerns and continues to act inappropriately or unprofessionally, consider whether you should escalate your concerns further. In some situations, such as where it affects patient safety, you may also need to raise your concerns internally or to an external organisation, even if the doctor is receptive to your feedback.

Raising concerns internally/within an organisation

12. Early notification is advisable if you have reasonable grounds to believe that another doctor may be putting patients at risk of harm.
13. You should follow any organisational procedure or policy for reporting concerns, or incidents including adverse events and near-misses.

² Examples include the Medical Council for concerns about a doctor's health, competence or conduct, and the Health and Disability Commissioner for concerns about the standard of care a doctor provided.

³ Sometimes, a doctor may feel uneasy raising their concerns directly with another doctor. For example, there could be a power imbalance if the doctor in question is more experienced or is a supervisor. Each situation will differ so the doctor raising concerns should consider the most effective way to address those concerns. In some instances, it may be appropriate to raise those concerns internally or externally rather than approaching that doctor directly.

14. In addition, consider raising your concerns with your manager, human resources staff or an appropriate senior colleague – such as the consultant in charge of the team, the Chief Medical Officer⁴ or a practice partner.⁵ Provide them with the relevant information. If you are practising under supervision, discuss your concerns with your supervisor.
15. Be clear, honest, and objective about the concerns you have, and make patient safety your focus.
16. Keep a record of your concerns and any steps you have taken to address those concerns.

Raising concerns externally

17. In certain situations it may be appropriate to raise your concerns with an external organisation such as Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand or the Health and Disability Commissioner (HDC). For example:
 - a. if there is no one that you can raise your concerns with internally
 - b. if you consider that someone within the organisation is part of the problem, and/or raising concerns internally could compromise your own safety
 - c. if a doctor poses an immediate risk to patients such that an external body should be alerted straight away (in that event, you should also inform the doctor's workplace of the actions you have taken)
 - d. if you are not satisfied with how your concerns have been handled after raising them internally
 - e. if you have a statutory or ethical responsibility to report your concerns (see below).
18. Exercise caution when discussing personal information about patients with an external body. Ensure that you adhere to the Health Information Privacy Code 2020 which sets out how health information should be handled.

When you should notify the Medical Council

19. As a regulator, our priority is to protect the health and safety of the public. Under the Health Practitioners Competence Assurance Act 2003 (HPCAA), there are instances where you should notify us about a doctor. These are set out below.

When there are concerns about another doctor's competence

20. If you believe that another doctor may pose a risk of harm to the public by practising below the required standard of competence, inform Council's Registrar and set out your reasons in writing.^{6 7}
21. An employer must contact Council's Registrar in writing when an employee resigns or is dismissed because of competence concerns. The employer must also set out the reasons for that resignation or dismissal.

When there are concerns about another doctor's professionalism

22. Recognition and management of unprofessional behaviour is important to protect public health and safety and maintain the public's trust and confidence in the medical profession. Unprofessional behaviour includes repeated inappropriate behaviour, as well as one-off incidents that may be disruptive.
23. Unprofessional behaviour, whether in a professional or personal setting, has wide-ranging implications beyond the doctor who acts unprofessionally. It can impact patient care, and interactions with other health professionals and colleagues, and affect how the public perceives the medical profession. You should contact us when unprofessional behaviour by a doctor poses a risk of harm to the public. Please refer to our statement on *Unprofessional behaviour* for more information.

⁴ Within a hospital, the credentialing process might be a useful tool for helping an individual in a confidential way.

⁵ If your concern is about a partner, it may be appropriate to raise your concern with someone outside the practice – for example with the Medical Director of a Primary Health Organisation or the relevant branch advisory body (such as a medical college).

⁶ See section 34(1) of the HPCAA.

⁷ Under section 34(4) of the HPCAA, a person who notifies the Medical Council about competence concerns regarding a doctor is protected from civil and criminal proceedings unless that person acted in bad faith.

When there are concerns about sexual misconduct by another doctor

24. Sexual misconduct is an abuse of the doctor-patient relationship and can cause significant and ongoing harm to patients. If you are concerned that another doctor may have breached sexual boundaries with a patient, you have an ethical obligation to act which includes notifying us about your concerns. Your first priority must be the patient's safety. Please refer to our statement on *Sexual boundaries in the doctor-patient relationship* for more information.

When there are concerns about another doctor's health

25. Doctors' mental and physical health can have a significant effect on their practice, and this is an area specifically addressed in the HPCAA.⁸ Under the HPCAA, doctors must inform us if they believe that another doctor's mental or physical health may be impacting their practice. The same obligations apply to those in charge of organisations that provide health services, and employers of doctors. Those involved in medical education must also inform us if a student undergoing that course has a mental or physical health condition that makes them unable to carry out the role expected of a doctor.⁹
26. Council's Health Manager can provide general advice on when and how to notify us of health concerns regarding a doctor. You should write to the Council's Registrar if you have serious concerns about a doctor's health. Include the following in your notification:
 - a. name and work details of the doctor you are concerned about; and
 - b. reasons for your concern.
27. Concerns about a doctor's health will be referred to the Health Committee. The Health Committee's priority is to protect public health and safety by working with doctors who have health problems to help them regain and maintain their fitness to practise medicine.

What happens when you notify us?

28. We aim to adopt a fair and principled approach when we assess and manage notifications, and our processes are designed to be educative and supportive. Our website provides information about our processes.
29. When you notify us of a concern, we will discuss the situation with you and explain what action we may take.
30. Your concerns about another doctor will usually not be treated as a formal notification unless you want us to take it further. If your concern is of a nature and level where it raises a risk of harm, we may have to act to protect public health and safety whether or not you want us to take it further.
31. Because some of the details could be confidential, we may be limited in how much information we can share with you about any ongoing action.
32. As the notifier, your name will normally be shared with the doctor you have made a notification about.

When you should raise your concerns with the Health and Disability Commissioner

33. If you have concerns about the standard of care another doctor provided to a patient, you should contact the Health and Disability Commissioner (HDC).
34. The HDC's purpose is to promote and protect the rights of consumers. This includes resolving complaints in a fair, simple and efficient way. The HDC has several ways of handling a complaint including referral to an independent advocate or another agency, investigation, and sending the complaint to the health provider to resolve.
35. Before approaching the HDC, you should consider the patient's wishes and how they would like to address their concerns.

⁸ See sections 45 to 50 of the HPCAA.

⁹ Under section 45(6) of the HPCAA a person who notifies the Medical Council about such health concerns is protected from civil and criminal proceedings unless that person acted in bad faith.

36. If a patient seeks your support when making a complaint about another doctor, you should answer their questions honestly. Avoid commenting about another doctor's competence or conduct if you were not there when the patient was treated or if you do not have the full picture about what happened. If the patient is unsure how they should make a complaint, tell them about any complaints process that the doctor's workplace may have and the patient's right to complain to the HDC about the standard of care they receive.

If you have concerns about a health practitioner who is not a doctor

37. Effective multidisciplinary care relies on the skills provided by all health practitioners. If you have concerns about a health practitioner who is not a doctor, most of this statement is still relevant. Consider raising your concerns directly with the health practitioner, their manager or employer.

38. If you are unable to resolve your concerns about another health practitioner's standard of care, you can notify the HDC. If that health practitioner is registered and you have concerns about their competence, conduct or health, contact the relevant regulator to discuss your concerns before making a formal notification.

Note: Support for doctors going through an inquiry

Doctors involved in an adverse event or subject to notification or investigation may find the experience stressful and upsetting. In these situations, assistance is available from employee assistance programmes or other schemes accessed through your indemnity provider.

April 2022

This statement was updated in April 2022. It replaces the December 2010 statement on *What to do when you have concerns about a colleague*. It is scheduled for review in 2027. Any changes to the law before that review may make parts of this statement obsolete.