



Medical Council of New Zealand

When another person is present during a consultation

For some or all consultations a doctor or patient may want another person present. When a third person attends a consultation the doctor and the patient should understand their rights to grant or withhold consent and when the attendance of a third person is mandatory. The role and function of the third person should be clearly understood by all parties.

1. The use of a third person is not restricted to consultations between male doctors and female patients or when conducting physical or intimate examinations. Male and female patients may wish to have a third person present for any number of reasons and doctors, whether they are male or female, may also have this preference.

Definition and role of the third person

2. The individual circumstances of the consultation, the doctor and the patient, will determine the role of the third person in a consultation. A third person may be present to participate in one of the following five roles as defined in this statement:
 - a support person for the patient;
 - an interpreter for the patient;
 - an observer for the doctor;
 - a student or trainee;
 - the doctor's chaperone.

Support person for the patient

3. Right 8 of the Code of Health and Disability Services Consumers' Rights states that "every consumer has the right to have one or more support persons of his or her choice present, except where safety may be compromised or another consumer's rights may be unreasonably infringed".
4. The support person(s) may be present in all or part of the consultation to provide support for the patient. Any aspect of a consultation, not just a physical examination, may cause discomfort or confusion and the patient has a right to request one or more support people in attendance. The function and role of the support person(s) focuses on the needs of the patient, whether it be holding the patient's hand, observing the consultation or asking questions on behalf of the patient.

5. Some reasons a patient may request the presence of a support person(s) are:
 - he or she feels more comfortable with the presence of a support person(s);
 - it is the first consultation in a new doctor-patient relationship;
 - the patient's cultural expectations include the presence of a third person;
 - the patient's age (either young or old);
 - the patient would like assistance to understand what happens in the consultation;
 - the patient has some form of mental or physical disability.

Interpreter

6. In some circumstances an interpreter may be present to assist in the communication between the doctor and patient. An interpreter may assist with translating a different language (i.e. a foreign language) or with the communication or understanding of someone with a disability or alternative form of communication (i.e. sign language). This is the patient's right under Right 5(1) of the Code of Health and Disability Services Consumers' Rights.

Observer for the doctor

7. This person is present at the doctor's request. A doctor may request an observer for a number of reasons.
 - It is the policy of the organisation or practice to have an observer in attendance. Some employers have a practice policy that a third person should be in attendance for certain types of examinations or consultations (e.g. internal examinations).
 - An observer may be used in continual professional development (CPD) to assess the doctor, with the intention of providing advice and guidance on how the doctor can improve his or her skills.
8. The role of the observer is to observe the consultation or part of a consultation on the doctor's behalf, including the communication between the doctor and patient and any examination that takes place. The level of the observer's interaction in the consultation should be agreed to before the consultation is initiated, both between the doctor and observer, and between the doctor and patient.
9. Consent for the presence of the observer should be obtained from the patient prior to the start of the consultation.

Students or trainees

10. As part of their education health professional students and trainees need to have the opportunity to access and learn from senior doctors with on-the-job training. This means attending actual patient consultations. Participation in teaching is covered by the Code of Health and Disability Services Consumers' Rights.
11. If a doctor would like to have one or more students or trainees attend a consultation the patient should be provided with an explanation prior to the consultation about the role that the student or trainee may take in the consultation and asked whether he or she consents to the student or trainee being present.

12. If a student or trainee is present during a consultation he or she should be formally introduced to the patient.

Chaperones

13. Some doctors have conditions on their registration or annual practising certificate that require a chaperone to be present at certain types of consultations. This condition is usually as a result of past disciplinary action and is intended to provide protection for patients. It requires a notice to be put up in the waiting and examination areas to inform patients.
14. The doctor who has this condition on his or her practice should inform any employer of the conditions.
15. The presence of a chaperone is not optional and if a patient does not feel comfortable with this requirement the patient will need to see another doctor. A doctor with a chaperone condition should disclose the reason behind the requirement if questioned why by a patient.
16. The only exception to the chaperone condition is in an emergencyⁱ situation. A doctor with a chaperone condition may attend an emergency, even when a chaperone cannot be located.

Principles of the process

17. Third person policies should be displayed in the practice waiting and examination areas. Arrangements for the presence of a third person should be in place prior to the start of the consultation.
18. All parties involved in the consultation must understand the role of the third person. The patient must give informed consent for a third person to be present and the role they'll take.
19. The Council advises that the doctor speak with the patient about the presence of a third person in private, away from the nominated third person. This is to ensure that the patient does not feel obligated to accept someone due to the discomfort of saying 'no' in front of the third person.
20. The Council recommends to doctors that if they require a third person to attend a consultation the third person should preferably be another health professional.
21. If a third person attends all or part of a consultation or procedure you need to ensure that the third person is aware of its confidential nature and that the patient's personal information and physical privacy must be respected.

What if the patient or doctor refuses to have the nominated third person?

22. Not every patient will want to have a third person in attendance, especially if there is an intimateⁱⁱ aspect to the consultation that includes a physical examination for which the patient may have to undress. Some patients have indicated that a third person makes

them feel an audience is present. A patient has the right to decline a third person being present.

23. If there is no agreement on the attendance of a third person, or who that third person should be, either the doctor or the patient has the right to withdraw from the consultation until a mutually acceptable third person is available. Alternatively, the patient may be referred to another doctor. This should not have any adverse effect on the care that is provided.

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- ⁱ **Emergency** is defined in accordance with Council's statement on doctor's duties in an emergency (available on the Council's website – www.mcnz.org.nz):

The Medical Council has adopted the definition of emergency by S Milesi as:

“a sudden, unforeseen injury, illness or complication, demanding immediate or early professional care to save life or prevent gross disability, pain or distress. The immediate responsibility of the doctor faced with, or called to an emergency is to apply his knowledge and skill to the saving of life and relief of suffering and to establish the most favourable conditions for his patient's ultimate recovery. This is the basic philosophy of medicine....”

Further to this definition, case law indicates that an emergency exists if the caller says it does until the doctor has had an opportunity to assess the situation and determine whether a 'medical emergency' exists.ⁱ The assessment may take place over the phone but the doctor must be confident that the information provided by the caller (who may not be the patient) provides sufficient detail for an accurate assessment.

- ⁱⁱ **Intimate** is used to describe any examination where the very nature of the examination encroaches across personal boundaries. The examination does not have to be internal or restricted to the breast or genital area. It may include any form of examination where the patient would not consent to another person touching him or her in a similar manner unless that person is a professional health practitioner or there is an established personal relationship.