

Gender-based restrictions protocol

June 2017 - Updated August 2022

Requirements of practitioners

What are gender-based restrictions?

Gender-based restrictions are restrictions (conditions or undertakings) on the registration of a health practitioner which forbid the health practitioner from having contact with a patient of a particular gender.

Who does this protocol apply to?

This protocol applies to all registered health practitioners who are subject to a gender-based restriction.

How do gender-based restrictions work?

Gender-based restrictions begin with a complete prohibition on practice of any type until practice locations are approved and published.

Before resuming any practice after the imposition of gender-based restrictions, the practitioner must:

1. Provide a signed acknowledgement of the restriction
2. Nominate practice location(s) for approval
3. Nominate staff at those practice location(s) who will be responsible for booking appointments
4. Await approval by the National Board of the nominated practice location(s)
5. Await the publication of the approved practice locations on their registration on the public register.

Practising before completing the above steps and receiving the required approvals will be considered a breach of the restriction and may constitute behaviour for which the Board may take action, including the suspension of registration.

1. Provide a signed acknowledgement of the restriction

In accordance with the timeframe in their restrictions, practitioners must provide signed acknowledgement, on the approved form (**GBR-1**), of their restrictions.

The GBR-1 form requires a declaration that the practitioner:

- understands they are not permitted to practise until their nominated practise location(s) is approved and published on the National Register
- has read and understood this Protocol
- understands the definition of 'patient', 'practise', 'practice location', 'male', 'female', and 'contact' as detailed in their condition, and
- is aware of the monitoring activities that will be undertaken by Ahpra to ensure their compliance with the restriction

2. Nominate practice location(s) for approval

The practitioner is prohibited from practising until the National Board approves the practice location(s) at which they can practise while restricted, and the approved practice location(s) is published on the National Register.

The practitioner must provide details of practice location(s) on the approved form (**GBR-2**). The GBR-2 form requires the practitioner to:

- provide details of all locations they were practising at the time of the imposition of the gender-based restriction, and
- nominate no more than three (3) practice locations for approval by the National Board

Practice locations will be assessed for approval based on their suitability for practice in accordance with the requirements of the restrictions. Practice locations will not usually be approved where:

- the practitioner will be the sole practitioner of their profession at the practice location
- the practice location is the practitioner's place of residence or the residence of patients
- the practice manager at the practice location has a direct personal relationship with the practitioner (for example, a spouse, de facto, sibling or other relative)
- there is no practice management software at the practice location capable of producing the required reports on appointment and billing information to be provided to Ahpra
- there are no nominated booking staff available at the practice location to handle the booking of patients
- the practitioner will be conducting telehealth appointments with no oversight or ability to provide independent evidence of compliance

3. Nominate staff at practice location(s) who will be responsible for booking appointments

The practitioner must provide details of the nominated booking staff on the approved form (**GBR-3**). Each nominated booking staff must:

- be provided a copy of the *Gender-based restriction protocol* (this document)
- return to Ahpra a signed declaration on the approved form (**GBR-4**) that acknowledges and confirms their awareness of the steps to take if patients of the gender detailed in the restriction attempt to book an appointment with the practitioner.

Nominated booking staff must not make patient bookings for the practitioner until they have completed the National Board's induction program and written confirmation is provided by Ahpra to the practitioner.

Only nominated booking staff must make patient bookings for the practitioner. The practitioner must nominate any new booking staff by submitting new nomination forms.

Patients of the gender detailed in the restriction must be informed of the restriction by an approved booking staff member at the time of booking the appointment or, in the case of an unbooked appointment, at the time of presenting at the practice location seeking an appointment.

What happens when a practitioner starts practising with the gender-based restriction?

After the National Board approves the nominations, and the approved practice locations are published on the National Register, the practitioner can commence practising in accordance with the gender-based restriction.

Practitioners must not undertake any contact with a patient who falls within the definition of the gender restrictions. Any contact between the practitioner and a patient in a prohibited gender category will be considered a breach of the restriction and may constitute behaviour for which the Board may take action, including the suspension of registration.

Practitioners are not permitted to practise at any more than three (3) practice locations, all of which must be approved. Any practise which occurs outside of an approved practice location will be considered a breach of the restriction and may constitute behaviour for which the Board may take action, including the suspension of registration.

Changes of booking staff

If after the publication of approved practice locations any nominated booking staff become unable to fulfill their responsibilities, the practitioner must nominate alternate booking staff as necessary to ensure ongoing compliance with the restriction.

New nominated booking staff must not make patient bookings for the practitioner until they have completed the National Board's induction program and written confirmation is provided by Ahpra to the practitioner.

Use of interpreters

Where an interpreter is necessary to facilitate communications between the practitioner and a patient, an interpreter of the prohibited gender can only be used where that interpreter is accredited by the National Accreditation Authority for Translators and Interpreters (NAATI) and acting in their professional capacity.

Definitions

'Contact' includes consultation, interview, examination, assessment, prescribing for, advising or otherwise treating a patient, whether it is in person or on a communication device.

'Gender' is referred to in the restrictions as either 'male' or 'female'. For the purposes of the restriction, these terms have specific meanings:

Male is defined as any individual whose biological sex is that of a male, as well as all individuals whose gender identity or gender expression is that of a male.

Female is defined as any individual whose biological sex is that of a female, as well as all individuals whose gender identity or gender expression is that of a female.

'Patient' is defined as any individual awaiting, requiring, or receiving the professional services of the practitioner or a registered health practitioner within the same place of practice as the practitioner. It also includes any spouse, partner, parent, family member, guardian/carer, or any other person acting as a support person of the individual awaiting, requiring, or receiving professional services.

'Practise' has a particular meaning and is defined as:

Any role, whether remunerated or not, in which the individual uses their skills and knowledge in their profession. It is not restricted to the provision of direct clinical care and includes using the knowledge and skills in a direct non-clinical relationship with a client, working in management, administration, education, research, advisory, regulatory or policy development roles and any other roles that impact on safe, effective delivery of services in the profession.

'Practice location' means any location where the practitioner practises the profession including any place where the practitioner:

- (a) is self-employed
- (b) shares premises with other registered health practitioners
- (c) is engaged by one or more entities under a contract of employment, contract for services or any other arrangement or agreement
- (d) provides services for or on the behalf of one or more entities, whether in an honorary capacity, as a volunteer or otherwise, whether or not the practitioner receives payment from an entity for the services, or
- (e) provides professional services at the residential premises of a patient.

'Telehealth' means any practise – including any consultation, interview, examination, assessment, prescribing, or other form of treatment of a patient – performed via telephone, email, instant messaging or any other form of digital communication.