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Responding to sexual harassment by patients

A brief guide for general practices



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We acknowledge the Traditional Custodians of the lands and seas on which we work and live, and pay our respects to Elders, past, present and future.

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Responding to sexual harassment by patients: A brief guide for general practices

This brief guide has been designed to support general practitioners (GPs) and general practice staff in responding to sexual harassment by patients or their carers (referred to as 'patients' in this guide).

What is sexual harassment?

The legal definition of sexual harassment in Australia is any unwelcome sexual advance, request for sexual favours or other behaviour of a sexual nature that makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.^{1,2} Sexual harassment can occur as a single event or as part of a pattern of behaviour.

Types of sexual harassment include:¹

- unwelcome physical contact (such as sexual touching, grabbing or kissing)
- unnecessary familiarity with another person's body (such as deliberately brushing up against a person)
- staring or leering
- whistling
- suggestive/lewd comments or jokes
- gender-based insults or taunts
- unwanted invitations to go out on dates
- requests for sex
- intrusive questions about a person's private life or body
- communicating content of a sexual nature through social media, email or text messages
- stalking.

In the context of general practice, other behaviours can also constitute sexual harassment, such as requests for inappropriate genital examinations or inappropriate exposure of body parts.

How does the law apply to me in my work at a general practice?

Under the [Sex Discrimination Act 1984 \(Cth\)](#), it is unlawful for a person to sexually harass another person in the course of seeking or receiving goods, services or facilities from that person.²

General practice teams often encounter people whose behaviour might be in part accounted for by diminished cognitive capacity, mental illness, drug use or intoxication. While these factors might help to explain a person's behaviour, you do not have to tolerate sexual harassment from any person. You have a right to feel safe at work.

How common is sexual harassment by patients?

Regrettably, sexual harassment is extremely common in Australian society. A 2018 study by the Australian Human Rights Commission revealed that 71% of Australian adults have been sexually harassed at some point in their lifetime, including 85% women and 56% of men.³

Limited data exist on the prevalence of sexual harassment of GPs by patients. In one 2011 study, 6% of Australian GPs reported having been sexually harassed in the previous year, with female GPs and early-career GPs reporting more frequent sexual harassment than their male counterparts or GPs with more experience.⁴ Another Australian study found that almost 55% of female Australian GPs had been sexually harassed by a patient at some point. Almost 10% of those had been sexually harassed more than eight times.⁵

Other general practice team members with frontline, patient-facing roles are also at risk, though there is a lack of published prevalence data.

What are the impacts of sexual harassment by patients?

By definition, sexual harassment can make a person feel humiliated or intimidated. Over time, it can affect a person's physical and mental health.⁶ When it occurs at work, it can impact a person's career satisfaction⁷ and contribute to burnout.⁸

Unfortunately, many female Australian GPs who have experienced sexual harassment report changing the way they practise as a result, with some altering their dress, their manner in consultations and/or their hours of practice. Some opted to refrain from performing particular examinations or from working alone.⁵

How can I respond to sexual harassment by a patient in the first instance?

Your safety, health and wellbeing are paramount.

Your practice should have a policy and procedures for sexual harassment by patients. It is important to note that a policy for sexual harassment in the workplace is not sufficient to assist practices in navigating the particular challenges presented by sexual harassment by patients.

The following decision-making tool might be used as part of your practice's policy for managing sexual harassment by patients.^{9,10} For more information on managing aggressive or violent patients, please see the RACGP resource, [Preventing and managing patient aggression and violence: A brief guide for general practices](#).

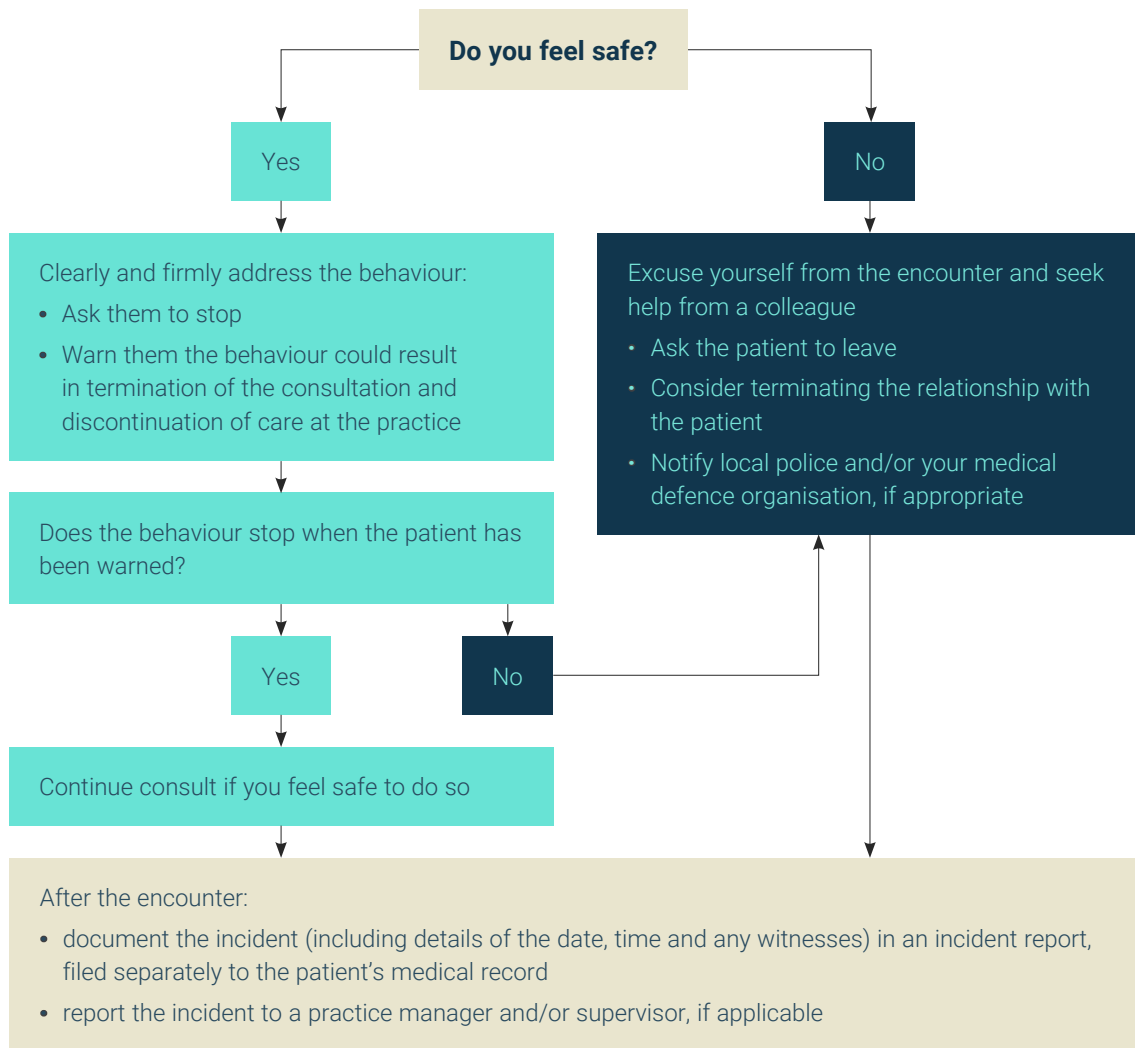


Figure 1. Decision tree for incidents of sexual harassment by patients

What should I do if I witness someone being sexually harassed at the practice?

Bystanders who speak up when they see another person experiencing sexual harassment help create a culture of safety and respect within a workplace. Speaking out helps model a confident approach to identifying and stamping out the behaviour.¹¹ It is important that everyone in the team is clear on what constitutes sexual harassment and feels empowered to address it when it occurs.

The decision tree (Figure 1) can be applied when you see another person being sexually harassed by a patient. Staff should address the patient's behaviour directly if it is safe to do so. If it is appropriate, stay with your colleague to support them to manage the situation. If the behaviour stops and you and others feel safe, the encounter can proceed; if the behaviour continues, the encounter should be terminated and/or the patient asked to leave.

As above, if the situation feels unsafe to you, consider terminating the encounter and asking the patient to leave. For more information, refer to [Preventing and managing patient aggression and violence: A brief guide for general practices](#).

After the encounter, you can provide emotional support to the person who has been harassed, and offer to help them document and report the behaviour if appropriate.

What is stalking?

Stalking refers to the repeated intrusion of a person into the life of another person in a way that causes fear or distress. Examples of stalking behaviours include:^{12,13}

- following a person or loitering near their home, place of work or another place they frequent
- making threats to harm a person or their family or friends
- sending inappropriate emails, letters, faxes or social media messages
- making inappropriate phone calls
- distributing malicious material about a person (for example, through flyers, websites, social media posts)
- making baseless complaints of professional misconduct or filing spurious lawsuits against the victim
- ordering or cancelling goods or services on behalf of the victim
- interfering with/damaging property
- physically attacking or attempting to attack a person.

In Australia, stalking is a crime under various state and territory laws, though there are differences in the legal definition across jurisdictions.

How common is stalking by patients?

While the stalking of GPs is uncommon, doctors are more vulnerable to this risk than others in the community.¹²

How can I respond if a patient is stalking me?

If a patient is stalking you, contact your medical defence organisation (MDO) and local police for advice that is specific to your situation.

General strategies for managing stalking include:¹³⁻¹⁵

- reiterating the professional nature of the relationship
- if necessary, outlining the limits of the doctor–patient relationship in more detail; for example, by specifying you do not have contact with patients outside consulting hours
- avoiding suggesting that you are unavailable for a relationship because you have a partner
- carefully documenting each incident, with details of time, date and any witnesses
- retaining all evidence (for example, text or voice messages, gifts, emails or letters)
- discontinuing care of the patient (see next section)

- advising colleagues in the workplace to assist you to preserve your own safety and that of others at the practice
- advising relevant family members to help them to preserve your and their own safety
- contacting police and considering an intervention/restraining order against the patient.

Can our practice discontinue care where safety concerns exist?

Your practice can discontinue care for a patient when there are safety concerns for your practice team and others who attend the practice. Safety concerns prevent you from providing ongoing, high-quality care for that patient.

GPs have obligations under:

- work health and safety laws (refer to section on work health and safety)
- the Medical Board of Australia's [Good medical practice: A code of conduct for doctors in Australia](#) (section 3.4.5, 'Keeping yourself and your staff safe when caring for patients').

If our practice discontinues care, what is the GP's ongoing duty of care to the patient?

Your practice must:

- ensure that a patient is not excluded on the grounds of illness (including mental illness) or disability
- ensure that in a medical emergency, the patient receives medical care
- explain to the patient that although care is being discontinued at your practice, getting care for any ongoing or new medical issues is important
- ensure an appropriate and timely clinical handover is available to future care providers (for example, offer to promptly transfer medical records).

How should our practice discontinue care?

You can discuss with the patient in person, if safe to do so. It would be prudent to follow up this conversation with a letter. [Preventing and managing patient aggression and violence: A brief guide for general practices](#) has sample templates in which the wording could be changed to describe incidents of sexual harassment.

In advising them that you are discontinuing their care, the letter should:

- outline the boundaries you are setting (for example, that the patient is not to call or attend the practice)
- offer to transfer a copy of the patient's health information to a new practice with the patient's permission
- take care of any urgent medical matters for the patient (for example, ensure that they have a supply of their medication).

What else does our practice need to do?

Your practice should:

- establish whether the patient has a carer, to ensure they are appropriately involved in relevant deliberations and communications (while being mindful of patient confidentiality and privacy)

- keep a detailed factual report of the conversation or measures taken in informing the patient about the decision to discontinue care, including a copy of any letter sent to the patient
- flag the patient file so the entire practice team knows that the patient has been instructed to no longer attend the practice
- agree upon the practice's response to a violation of the boundaries you have set (for example, what the practice will do if the patient calls or attends). This should be supported by thorough training, including scripts for reception staff and the opportunity for rehearsal.

There may be situations when a letter to other treatment providers may be necessary. If required, this letter should simply state that the practice is no longer involved in the patient's care.

If you hold any concerns regarding the process of discontinuing care, speak with your MDO.

Can our practice disclose an act of sexual harassment by our patient?

If a patient poses a threat to the safety of staff and you believe others may be in danger, there are circumstances in which you can make disclosures about the patient.

What does our practice need to consider?

All general practices must comply with the [Privacy Act 1988 \(Cth\)](#), the [Australian Privacy Principles \(APPs\)](#), and [state and territory privacy laws](#).

The laws restrict how information about patients can be collected, used (within the practice) and shared (outside the practice). 'Health information' has a broad definition under these laws.

Under the APPs, you may disclose information without a patient's consent, to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.

To rely on this exception, it is necessary that:

- obtaining consent from the patient is impracticable or unreasonable
- you reasonably believe that disclosure is necessary to prevent serious threat to the life, health or safety of any individual, or to public health or safety.

If you hold any concerns regarding whether disclosure is or is not appropriate, speak with your MDO.

What are our work health and safety responsibilities to employees, contractors and visitors?

All practices have a responsibility under work health and safety laws to provide a safe working environment for staff, contractors and visitors.

Your practice must ensure, as far as is 'reasonably practicable', that people are not put at risk by work carried out as part of the business.

Your practice is therefore obliged to identify, and eliminate or control, risks associated with sexual harassment by patients, as far as is reasonably practicable.

How can our practice team prevent sexual harassment and create a safe environment for staff?

A robust practice policy and training are key to a well-managed, consistent response when preventing and managing sexual harassment by patients.

Some strategies to create a safe practice may include:

- not disclosing personal details to patients, including those of another team member
- having a zero-tolerance policy on sexual harassment by patients
- building a safety culture within the practice team
- consulting with the team on safety concerns and initiatives
- ensuring staff feel safe to report sexual harassment by patients to their practice manager and/or supervisors
- assessing, and regularly reassessing, your practice's risks, considering your patient cohort and the physical environment
- clearly defining what acts and behaviours require a response, particularly in relation to a zero-tolerance policy
- setting out clear steps for your team to take when dealing with sexual harassment by patients
- considering the design and layout of your practice and consulting rooms
 - ideally there should be two exit points from each room (this may not be practical in many consulting rooms)
 - ideally the GP or team member should be positioned closest to an exit, avoiding having patients positioned between them and the exit (this may not be practical in many situations)
- installing a duress alarm or phone alert system that your practice can use if a patient is threatening or violent, and establishing a response plan for when the alarm is triggered
- considering the appropriateness of closed-circuit television (CCTV) – patient privacy and workplace surveillance laws must be considered if CCTV is used, and you should display a notice in the waiting room and on the front door informing people that CCTV monitoring is in progress
- ensuring no team member is alone on the premises at any time
- maintaining safe staffing arrangements for after-hours care
- ensuring (as far as possible) that outside areas such as walkways to car parks are well lit
- conducting thorough team member induction and regular training on the practice's incident response procedures.

All strategies should be documented in your practice's policies and procedures manual.

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