



Conducting medical assessments for third parties

Key points about conducting medical assessments for third parties

When a third party¹ asks you to assess a patient, their purpose is to obtain your opinion to help them make decisions about the patient, and not for you to provide care or treatment to that patient.

In undertaking such an assessment, you still have obligations to the patient. This includes being professional and respectful in your approach and communication with the patient and obtaining their informed consent before going ahead with the assessment.

If during your review you discover another medical condition or abnormal finding that is not related to the purpose of the assessment, you should tell the patient and refer them back to their own doctor for further investigation.

Your opinion may influence the decisions the third party makes about the patient. Ensure that your report to the third party is accurate and objective and based on evidence.

About our statement on conducting medical assessments for third parties

This statement sets out what you should consider when a third party asks you to assess a patient. The guidance in this statement is not intended to be exhaustive so you should familiarise yourself with any additional requirements the third party may have.

This statement may be helpful for patients who are asked to attend a medical assessment by a third party, and for third parties who refer patients to doctors for such assessments.

Overview

- 1 The practice of medicine² includes conducting medical assessments for third parties. The purpose of these medical assessments varies depending on the third party's role and what information they are seeking about the patient. Examples include assessment for employment suitability, application for insurance cover, eligibility for health services, or compensation.
- 2 Medical assessments may be conducted by the patient's own doctor (referred to as the treating doctor), or by a non-treating doctor (the assessing doctor). Insurance companies and employers often seek information from the treating doctor when making an assessment about a patient. At other times, a third party may ask a non-treating doctor for an independent assessment or second opinion. This commonly happens in legal proceedings where the doctor acts as an expert advisor, or where the doctor works for an organisation like ACC or an insurance company.

¹ A third party refers to a person or organisation besides the doctor and patient. Examples of third parties who may request a medical assessment of the patient include insurers, Accident Compensation Corporation, an existing or prospective employer, Work and Income New Zealand, and immigration authorities.

² Refer to the Medical Council's definition of the 'practice of medicine' for more information.

- 3 Your assessment may take several forms, including an in-person review, physical examination of the patient, or a file review of the patient's medical history.

Key principles about your role as an assessing doctor

- 4 If a third party asks you to conduct a medical assessment of a patient, you are not in a treating relationship. This means that the relationship between the patient and you as the assessing doctor is different from when a patient seeks care and treatment from you.
- 5 As an assessing doctor, your role is to conduct a medical assessment and provide an impartial medical opinion to the third party who has employed or contracted you. Your role does not include providing any form of treatment to the patient, and it is important that the patient understands this.
- 6 Your opinion may influence the third party's decisions about the patient. For example, the third party may decline cover or compensation. Because of the possible implications for a patient, you must ensure that your professional opinion and recommendations are accurate, objective, and based on evidence.

Factors to consider before you conduct a medical assessment for a third party

- 7 Before conducting the medical assessment, you should be satisfied that there is an appropriate basis for the third party's request. If you do not consider yourself suitably qualified to conduct an assessment, or you identify a conflict of interest, you must decline the referral.
- 8 Consider whether your assessment, opinion or recommendation could be influenced by your own biases or interests. If you are unable to provide an assessment that is accurate and objective, you must decline the referral.
- 9 Sometimes, the third party may ask you to provide an opinion about the patient based on file records. If so, you must be satisfied and be able to show that you have all the information you need to make an accurate assessment without conducting a physical examination or speaking with the patient.

The assessing doctor's obligations when conducting a medical assessment

- 10 Doctors inherently hold the power in a doctor-patient relationship, and this imbalance can extend to medical assessments that they conduct for third parties. Even though you are not providing that patient with any care and treatment, you still have obligations to the patient. This includes being professional and respectful in your approach and communication with the patient and obtaining their informed consent.³
- 11 If you assess the patient in person, you must respect the patient's dignity and communicate with the patient in a way that enables the patient to understand your role, and what information you require from them.

How you can facilitate an effective medical assessment

- 12 In a medical assessment for a third party, the stakes may be high for the patient. This could lead to differing expectations, misunderstandings, and confusion about the assessing doctor's responsibility to the patient.
- 13 If a third party asks the patient to attend a medical assessment:

Check that the patient understands the purpose of the medical assessment and your role as the assessing doctor

- a You must ensure the patient understands the purpose of the medical assessment and your role as the assessing doctor. Although the third party will usually contact the patient beforehand, you should confirm that this communication took place, and provide further explanation to the patient, if needed. This should include explaining the differences between your role as an assessor, and the role of the patient's own doctor as their treatment provider.

³ See the Code of Health and Disability Services Consumers' Rights for more information.

Explain what the medical assessment will involve

- b You must explain what will happen during the assessment and also ensure that the patient is aware of what you intend to cover as part of your assessment. If the assessment involves any tests or physical examination, you should highlight this to the patient, and explain why the investigation is needed.

Obtain the patient's informed consent before going ahead with the medical assessment and before ordering any tests or physical examination

- c You must obtain the patient's informed consent before going ahead with the medical assessment, and any tests or physical examination that form part of your assessment. Check that the patient understands that the information they provide during the medical assessment may be included in your report to the third party.
- d You must not proceed with the assessment or with any tests or physical examination if the patient does not give informed consent. You must obtain the patient's explicit consent if the assessment involves any intimate examination.⁴ You should also advise the patient that they have the right to withdraw their consent, and to stop the assessment at any point. Inform the patient of any relevant policy the third party has on the withdrawal of consent. If the patient withdraws their consent part-way through the assessment, your report to the third party should include at which point the assessment was terminated and why.

Check that the patient understands that you will be reporting back to the third party who engaged you

- e Explain to the patient, your obligation to report back to the third party about the medical assessment you conducted. Specifically, you must ensure the patient understands that your report will be the property of the third party, and that it is the third party who makes the final decision about the patient. As such, you should ask the patient to direct any subsequent concerns or requests for information to the third party.

If the patient wishes to have a support person present

- 14 A patient has the right to have one or more support persons of their choice present at the medical assessment unless that compromises safety or the rights of another patient.⁵ If the patient attends the medical assessment accompanied, you should include the name of the support person and their relationship to the patient in your report to the third party.

If the patient (or their support person) wants to record the medical assessment

- 15 A patient or their support person may want to make notes or record the assessment on their own device. You should consider such a request carefully. If you do not agree to the patient recording the assessment, explain to the patient that you are unable to carry on with the assessment. Document this and inform the third party so that they can decide whether to re-schedule the medical assessment or to arrange for another doctor to conduct the assessment.

Reporting to the third party about the medical assessment you have conducted

- 16 After conducting the medical assessment, it is standard practice to set out your findings in a written report to the third party. Ensure that your report is accurate, objective, and free from personal bias. Use language and terminology that is suitable for the intended audience.
- 17 You should not speculate on your findings. If you are unable to provide a medical opinion that is sound and accurate, or there are aspects where you are inconclusive, you must state this in your report.
- 18 You should state the limits of your expertise. If further investigations are likely to be helpful, you should specify what other investigations the third party should initiate and why those investigations are recommended.

⁴ See also our statements on *Informed consent: Helping patients make informed decisions about their care*, *Sexual boundaries in the doctor-patient relationship* and *Professional boundaries in the doctor-patient relationship*. Even though medical assessments for third parties do not involve providing care and treatment to the patient, obtaining informed consent and maintaining appropriate sexual and professional boundaries are still key aspects of the assessment.

⁵ Right 8 of the Code of Health and Disability Services Consumers' Rights.

- 19 Any document or material that the third party provides should be listed in your report as part of the information you reviewed. You should also list any other materials you reviewed such as journal papers and best practice standards. This helps the third party and anyone else reading your report to know what information you took into account when making your findings. It is also a useful reference in case there are any concerns or disagreement about how you arrived at your findings.
- 20 If the third party asks you to make recommendations (such as suitability for an employment position), you must be able to justify them.
- 21 The third party is responsible for making decisions about the patient. This includes decisions about the patient's eligibility for compensation, cover, and other benefits. You should restrict your comments to an assessment of medical issues.

Retention of reports, notes and documents

- 22 The Health Information Privacy Code 2020⁶ applies to medical assessments you conduct for third parties. Ensure that you handle records about the patient and your report to the third party in a manner that is consistent with the principles in the Code. Check with the third party whether they have any specific obligations regarding how long you should retain any notes and documents you have been given, and how and when they should be deleted or destroyed.

Following up on matters that may arise during a medical assessment

- 23 If you order any tests or investigations as part of your assessment, the results should be copied to the patient's own doctor with an explanation about the context for these tests and investigations. Inform the patient of this and ask them to contact their own doctor if they have any questions or concerns about the tests or investigations you ordered.
- 24 If during your assessment you discover another medical condition or an abnormal finding that is not related to the purpose of the assessment, you should tell the patient and refer them back to their own doctor for further investigation. You should notify the patient's doctor in writing. You should not disclose this condition to the third party unless that information is relevant to their enquiry.

Medical assessments by the patient's own doctor

- 25 Sometimes, the patient's own doctor will be asked to conduct a medical assessment. The reasons vary and could include the patient living in a place where there is no other doctor available for the assessment, or it would be inappropriate for another doctor to conduct the assessment because of the sensitivities involved.
- 26 If you are the patient's own doctor and a third party has asked you to conduct an assessment, you should:
 - a explain the difference in your role before the assessment takes place
 - b ensure that the patient understands the purpose of the assessment and that you will not be prescribing any treatment during the course of your assessment
 - c ensure that your report to the third party is accurate, objective, and based on all the evidence available to you.

File assessments without any contact with the patient

- 27 Some doctors may be asked to conduct medical assessments based solely on information in the patient's file. Like any other medical assessment, you must be satisfied that you have all the information you require, and that you do not need to examine the patient or to speak to them before providing your professional opinion or recommendation.
- 28 Remember that what another health practitioner has documented about the patient is based on their contact with the patient which could include conducting physical examinations and ordering investigations. If you disagree with another health practitioner's diagnosis or findings, you must be able to explain your findings and how you arrived at a different view. Before setting out your views in writing, consider whether further assessment is needed.

⁶ The Health Information Privacy Code 2020 is a regulation under the Privacy Act 2020. The 13 rules of the Code are consistent with the Privacy Act 2020.

Raising concerns about the medical assessment conducted for third parties

- 29 Concerns about the assessing doctor, particularly how they conducted an in-person or telehealth assessment may be raised with the Council or the Health and Disability Commissioner.⁷
- 30 Questions or concerns about an assessing doctor's suitability to provide an opinion should be raised with the third party who requested the assessment.

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This statement was updated in August 2021. It replaces the December 2010 statement on *Non-treating doctors performing medical assessments of patients for third parties*. It is scheduled for review in August 2026. Any changes to the law before that review may make parts of this statement obsolete.

⁷ Purely paper-based reviews and the assessing doctor's report are usually outside the Commissioner's jurisdiction.