**Canberra Hospital and Health Services**

**OperationalProcedure**

**Reviewing the Clinical Competence of a doctor or dentist following the receipt of a complaint or concern**

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| Purpose |

The purpose of this procedure is to outline ACT Health’s approach to the management of concerns or complaints about the clinical competence of a doctor or a dentist (clinician).

There are a number of steps that an Executive Director (ED) can take to assess a concern or complaint about a clinician’s clinical competence. These steps may resolve the complaint, highlight areas for systemic improvement, lead to a local resolution, and/or demonstrate the need to refer the matter for further review by the Medical and Dental Appointments Advisory Committee (MDAAC) Executive or external agencies such as the Australian Health Practitioner Regulation Agency (AHPRA).

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| Alerts |

If at any stage of this process, it is determined that there are **significant concerns** about a clinician’s clinical competence that should be addressed by the MDAAC Executive, with their ability to recommend to withdraw or amend the clinician’s scope of clinical practice, the relevant ED can refer the matter to the MDAAC Executive by contacting the Chief Medical Officer (CMO), as the Chair of MDAAC. This referral should be accompanied by all information gathered by the ED to date, and reasons for the referral.

The clinician should be advised of this course of action by the ED.

The ED is required to prepare a Minute for the Deputy Director-General (DDG), Canberra Hospital and Health Services (CHHS) outlining the complaint, information gathered, and the reasons for deciding to refer the matter to the MDAAC Executive and any further action that is required, including a notification to AHPRA.

In accordance with section 140 of the *Health Practitioner Regulation National Law (ACT) 2015,* a registered health practitioner must notify the National Agency if they form a reasonable belief that another registered health practitioner, of the same profession, has behaved in a way that constitutes notifiable conduct.

In accordance with section 144 of the *Health Practitioner Regulation National Law (ACT) 2015,* a voluntary notification about a registered health practitioner may be made to the National Agency.

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| Scope |

This procedure relates to all complaints about the clinical competence of a doctor or a dentist. All staff employed by ACT Health must adhere to this procedure.

Employment includes clinicians with permanent, short or fixed term appointments or contracts, including locums or clinicians appointed on an urgent basis, such as in an emergency or a disaster situation.

This procedure does not refer to complaints about:

* Junior Medical Officers (JMOs). Complaints about JMOs are to be addressed by the Medical Officer Support, Credentialing, Employment, and Training Unit (MOSCETU).
* Discrimination, Harassment and Bullying. These complaints are addressed by the *Respect at Work – Resolving Workplace Issues Procedure*
* Consumer feedback. These complaints are addressed by the *Consumer Feedback Management in the Health Directorate Policy and procedure*.
* Significant incidents are addressed in the *Incident Management Procedure*.
* Research Misconduct. These complaints are addressed by the *Research Practice Policy.*
* Issues raised directly with the Health Services Commissioner (HSC). The management of complaints from the HSC are addressed in the *Consumer Feedback Management in the Health Directorate Policy and procedure*
* Complaints that have been directly raised with the Minister for Health or the Minister for Mental Health. These complaints are emailed to the Executive Director (ED) for CHHS generic inbox and relevant Executive Officers (EOs) for action.
* Notifications that have been received from AHPRA. Notifications are emailed to the ED CHHS generic inbox and relevant EOs for action.

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| Roles & Responsibilities |

The relevant ED is responsible for managing complaints about the clinical competence of a clinician within their area. As such, the ED should be notified of all complaints concerning clinical competence. An ED may decide to delegate the matter to another Director / Manager within their Division to handle the complaint, as appropriate.

Where a complaint or concern has been received about the clinical competence of a clinician, the ED is to gather sufficient information to establish whether or not a clinician’s clinical competence is in accordance with accepted standards of practice; and to determine what action, if any, is required. The ED is required to prepare a final report outlining what action, if any, is required.

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| Section 1 – Complaints Received |

A complaint may be received about the clinical competence of a clinician either verbally or in writing. If a verbal complaint is received, the complainant may be encouraged to put their concerns in writing, or agree to sign the ED’s written summary of the issues raised.

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| Section 2 – Information Gathering |

Gathering sufficient information will include separate discussions with the complainant and the clinician. Additional steps that may be taken to gather information include (but are not limited to):

* reviewing relevant clinical record(s)
* seeking peer / manager reports in relation to clinical performance
* seeking independent, de-identified reports on clinical performance from an external reviewer to the CHHS
* reviewing data from sources such as Health Roundtable; quality and safety reporting and mortality and morbidity meetings
* reviewing relevant ACT Health procedures or policies
* conducting an audit on data
* addressing systemic issues in team meetings and other forums
* speaking with additional members of staff.

**Standards of Practice**

In gathering information to assess a complaint, the ED will give consideration to the recognised clinical standards of practice for the speciality which is subject to the complaint; and whether the clinician’s clinical practice was reasonable in the circumstances. Standards of practice to consider include (but are not limited to) those published by:

* ACT Health, including policies and procedures
* Australian Health Practitioner Regulation Agency (AHPRA)
* National Health and Medical Research Council (NHMRC) for example, the ‘*Australian Code for the Responsible Conduct of Research’*
* Specialist Medical Colleges, Societies, and Associations for example, the Royal Australian College of Physician’s publication ‘*Supporting Physicians’ Professionalism and Performance’* or the *CanMEDS 2005 Physician Competency Framework*.

These include:

* The Royal Australian and New Zealand College of Psychiatrists <https://www.ranzcp.org>
* Royal Australasian College of Surgeons, <http://www.surgeons.org>
* The Royal Australian and New Zealand College of Obstetricians and Gynaecologists <https://www.ranzcog.edu.au/>
* The Royal Australian and New Zealand College of Ophthalmologists <https://ranzco.edu/>
* The Royal Australian and New Zealand College of Radiologists <https://www.ranzcr.com>
* College of Intensive Care Medicine, <https://www.cicm.org.au/>
* Australian and New Zealand College of Anaesthetists, <http://www.anzca.edu.au/>
* Royal Australasian College of Physicians, [https://www.racp.edu.au/](%20https:/www.racp.edu.au),
* The Dental Board of Australia, <http://www.dentalboard.gov.au/>
* Medical Board of Australia <http://www.medicalboard.gov.au/>
* including their publication “*Good Medical Practice: A Code of Conduct for Doctors in Australia*’, <http://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx>
* Relevant legislation.

**Confidentiality**

Limit the disclosure of information relating to a complaint to as few people as possible, and only to those who are legitimately involved in the process of resolving the matter. If a matter needs to be addressed more broadly with staff within a Business Unit, such as in a staff meeting, the issue and preventative measures may be highlighted while those involved in the complaint can still be afforded confidentiality.

**Privacy**

When collecting personal information the *Health Records (Privacy and Access) Act 1997* should be considered*.*

**Impartiality**

All complaints should be dealt with impartially. Situations will arise, from time to time, where a real or perceived conflict of interest arises in relation to a complaint. It is the responsibility of that person to declare the nature of the conflict of interest as soon as reasonably practicable to the ED. The ED will determine how the conflict of interest will be dealt with. Conflicts of interest must be documented and reported to the ED or the CMO.

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| Section 3 – Documentation |

All information gathered in relation to a complaint or concern about a practitioner’s clinical competence should be documented. All meetings dealing with the complaint should be minuted by the EO for the relevant Division and maintained by the ED. The complaint or concern and associated investigation should also be documented in Riskman, in the clinical incident / staff injury module, by the EO.

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| Section 4 – Discussing the complaint with the complainant and the clinician |

Separate discussions should be held with the complainant and the clinician.

These discussions will allow the ED to understand the context within which the complaint has been raised; ask clarifying questions concerning the nature of the incident(s); and request any supporting documentation. These discussions can also address how the matter may be resolved, the identification of systemic issues, and questions of clinical competence.

The complainant and the clinician may be accompanied by a support person.

During these discussions, the complainant and the clinician should be advised of the:

* contact person;
* anticipated process;
* the nature of the allegations in sufficient detail to enable the clinician to respond;
* available support from their professional indemnity provider, Australian Salaried Medical Officers Federation (ASMOF), Australian Medical Association (AMA) etc.; and
* regular touch points to receive updates on the gathering of information.

All meetings should be minuted by the Executive Officer for the relevant Division. Minutes will be provided to all parties of the meeting.

**Progress Updates**

It is important to ensure that the clinician is kept up to date with the progress of the complaint. It is the responsibility of the ED to contact the clinician every two weeks.

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| Section 5 – Preliminary report |

A report should be prepared for each complaint about a clinician’s clinical competence. If multiple concerns have been identified, each must be detailed within the one report.

Once sufficient information has been gathered to allow a decision to be made in relation to the clinician’s clinical competence, a preliminary report should be prepared, in writing, outlining the complaint, the information relied on, and any recommended action.

Any recommendations arising from this process must be made without bias and based on the information gathered.

The clinician should be afforded two weeks to respond to the preliminary decisions. The clinician’s response should be considered before a final decision is made, and included in the final report.

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| Section 6 – Final report |

A final report should be prepared outlining what action, if any, is required. Consideration should be given to resolving both individual and systemic concerns at a local level.

If after considering the gathered information, the ED is of the opinion that the alleged clinical competence issue **is not substantiated,** the ED will:

* inform the complainant of the outcome based on the information gathered. This could be as succinct as advising that the matter has been finalised to the satisfaction of the ED, or a more detailed explanation
* inform the clinician of the outcome
* whilst maintaining confidentiality, address any systemic issues that were highlighted
* whilst maintaining confidentiality, address any other issues that did not concern the clinician’s clinical competence that may have been highlighted by the complaint.

If after considering the gathered information the ED is of the opinion that the alleged clinical competence issue **is substantiated,** the ED will decide whether:

* the incident(s) can be addressed within the Division
* the matter requires mandatory reporting in accordance with the *Health Practitioner Regulation National Law (ACT) Act 2015*
* referral of the matter to MDAAC Executive is required or
* whether the ACT Insurance Agency (ACTIA) should be notified.

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| Section 7 – Referral to MDAAC Executive and/or AHPRA |

The ED is required to prepare a brief for the DDG, CHHS outlining the complaint, information gathered, and the reasons for deciding to refer the matter to the MDAAC Executive, and any further action that is required, including a notification to AHPRA.

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| Section 8 – Actions Identified and Completion |

* Actions identified as a result of the complaint are required to be documented, monitored and completed within a timeframe specified in the final report.
* Documentation should include how the action(s) was completed.
* When all recommendations are implemented and given time to imbed into practice, the local area should evaluate the effectiveness of the strategies.

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| Implementation |

This policy will be disseminated to all staff by Executive Directors.

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| Related Policies, Procedures, Guidelines and Legislation |

**Policies**

* Consumer Feedback Management in the Health Directorate Policy
* Incident Management Policy
* Research Practice Policy.

**Procedures**

* Respect at Work – Resolving Workplace Issues Procedure
* Consumer Feedback Management in the Health Directorate Procedure
* Incident Management Procedure
* Incident Management Policy
* Credentialing and Defining the Scope of Clinical Practice for Senior Medical and Dental Practitioners

**Legislation**

* *Health Practitioner Regulation National Law (ACT) Act* 2015
* *Health Records (Privacy and Access) Act* 1997
* *Human Rights Act* 2004

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| Definition of Terms |

*Clinical competence* refers to the demonstrated ability for a clinician to provide health care services at an expected level of safety and quality in accordance with the Australian Commission on Safety and Quality in Health Care, *Standard for Credentialing and Defining Scope of Clinical Practice* (ACSQHC, 2004).

*Complainant* is the person(s) who have lodged the complaint.

A *Significant Incident* an incident with an Extreme or Major outcome occurring in relation to Health Directorate services and care, requiring immediate notification to the Director General/Deputy Director General. Significant Incidents include Sentinel events and Notifiable Incidents.

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| Search Terms |

Clinical competence, Complaints about doctors and dentists, Complaints

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*Policy Team ONLY to complete the following:*

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| *Date Amended* | *Section Amended* | *Divisional Approval* | *Final Approval* |
| *16/03/2018* | *Complete Review* | *Boon Lim, A/g CMO* | *CHHS Policy Committee* |
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*This document supersedes the following:*

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| *Document Number* | *Document Name* |
| *DGD12-042* | *Reviewing the Clinical Competence of a Doctor or Dentist following Receipt of a Complaint or Concern Policy* |
| *DGD12-042* | *Reviewing the Clinical Competence of a Doctor or Dentist following Receipt of a Complaint or Concern SOP* |