

Medical Council of New Zealand and District Health Boards

Memorandum of Understanding

Our shared purpose

This Memorandum of Understanding (MOU) between the Medical Council of New Zealand (Council) and the District Health Boards (DHBs) commits us to work together, jointly and collaboratively, in relation to ensuring doctors are safe and competent to practise, and the public is protected.

The MOU contains information relevant to the Council and DHBs relating to doctors within the service of the DHB. This includes Chief Medical Officers (CMO), doctors, Council's supervisors, DHB management, medical administration units and HR departments.

The parties will use all reasonable endeavours to meet the obligations under this MOU. The parties will hold each other accountable for their performance under the MOU.

Our values and principles

Our organisations have unique values reflecting our purposes. However, there are common principles shared by us all. We work together in the spirit of these shared values, including respect, openness, commitment, and in pursuit of enhancing patient safety. As far as is reasonably possible, we adopt a 'no surprises' approach.

We remain committed to the principles of Te Tiriti o Waitangi; Tino Rangatiratanga, equity, active protection, options, and partnership.

We recognise that DHBs have responsibility to provide health and disability services within their contractual obligations and the Council has a responsibility to ensure the competence and fitness to practise of doctors. Failure to provide services and to ensure registered doctors are competent and fit to practise, are both risks to the health and safety of the public.

We agree to foster a long-term collaborative relationship to enable us both to achieve our respective organisational objectives efficiently and effectively. The following relationship principles will guide each of us in our mutual dealings:

- a. We communicate with each other in an open and timely manner (including in relation to any request to review any aspect of this MOU).
- b. We work in a collaborative and constructive manner and where agreed, undertake joint work initiatives.
- c. We comply with the legislation relevant to our respective roles and responsibilities.
- d. We acknowledge that the Council and each DHB have their own respective strategic and policy directions.
- e. We work in good faith to resolve any disagreements in a timely fashion.
- f. We support the need for clinical governance and leadership in the planning and delivery of health services in Aotearoa New Zealand.
- g. We recognise and value each other's skills, expertise and commitment to high quality performance.
- h. We encourage continuing quality improvement and business development to achieve our respective organisational objectives.



This MOU is based within the framework of Aotearoa New Zealand legislation, such as the Health Practitioners Competence Assurance Act 2003 (HPCAA 2003) and the Privacy Act 2020. It is intended to support us to meet our legal duties and obligations.

Meetings

We agree that holding regular meetings is important for developing an effective working relationship. The Council and DHBs will form a joint oversight group to monitor, evaluate, and report on the performance of the MOU.

The Council will be represented by the Chief Executive and relevant senior staff members. DHBs will be represented by a nominated Chief Operating Officer (COO) or General Manager (GM), Chief Medical Officer (CMO), General Manager – Human Resources (GM – HR), Resident Medical Officer (RMO) Manager, and a primary care advisor.

We agree to meet three times each year to discuss matters of mutual interest, including:

- a. how the MOU relationship is working and how our mutual roles and responsibilities are being delivered
- b. opportunities for improvement
- c. how such improvement might be implemented; and
- d. wider medical regulation issues.

After each oversight group meeting each member will report on the meeting and the above items to their respective national groups.

Review

This MOU will be reviewed every 4 years. The review process will be initiated at least 6 months prior to the scheduled review.

Signatures



Dr Nick Baker

Chair, DHB Chief Medical Officer Group

20th Dec 2021

Date signed



Joan Simeon

CEO, Medical Council of New Zealand

24/11/21.

Date signed

Section 2 Roles and responsibilities

The respective roles and responsibilities of Council and DHBs are outlined under key headings below.

Medical Council of New Zealand

District Health Boards

Registration

Experience, qualifications and fitness to practise

- Makes decisions on doctor's eligibility for registration, based on whether they satisfy the statutory requirements around competence, fitness for registration, and having the relevant prescribed qualification.
 - Checks CVs to identify gaps or concerns, and to assess fitness to practise and fitness for registration and that the international medical graduate (IMG) qualifications, skills and experience meet the criteria for the pathway being registered under.
 - Identification is verified using a range of mechanisms including passport verification, primary source verification of certain documents including qualifications, and carrying out a registration meeting.
 - Obtains certificate of professional status or equivalent (direct from source) for last 5 years from all jurisdictions in which the applicant has worked, to check for any concerns about health, competence, and conduct.
 - Requires a declaration from the applicant about their conduct, competence, mental and physical health in the Council's application form.
- Provide Council with a complete application, satisfying the Council's checklist of required documentation.
 - Confirm the applicant is fit for the position by reviewing the applicant's CV and through the interview process.
 - Ensure the applicant has appropriate training, qualifications and experience for proposed position and final signoff is made by Clinical Director or HOD and finally CMO (two signatories).
 - Credential SMO employee on appointment and then at specified intervals thereafter in keeping with national guidelines.

References

- Reviews references to ensure there are no competence, conduct or health issues for those applying for registration.
- Obtains referee reports direct from source.
- Check confidential references to ensure experience validated and fitness for employment assessed, verifying references direct at source and checking verbal referee reports. The clinical leader from the immediate past employer is a critical referee.
- Undertake full employment checks for each applicant.

Timelines for international medical graduate (IMGs) registration applications

- Acknowledges receipt of applications within 5 working days.
- Processes complete applications within 20 working days and issue a letter of eligibility (for special purpose, provisional general, general and vocational scope applications). Applicant disclosures about fitness to practise (FTP) issues are likely to require a longer timeframe.
- Completes the registration process and issues a practising certificate within 3 working days of attendance at registration meeting (held via videoconference once the doctor has arrived in New Zealand), if all required documents are provided and the required fees are paid.
- IMG provisional vocational scope applications should be processed within 6 months upon receipt of a complete application.
- Where possible, ensure the applicant or recruitment agency submits a complete application for registration at least 3 months prior to their intended start date (to allow for processing time, travel to New Zealand, immigration processes, registration meeting, and issuing of practising certificate) and longer if the application is outside the Council's policy.
- Where possible, ensure that applications for provisional vocational registration are submitted at least 9 months in advance of the intended start date in New Zealand.
- Ensure the applicant has all required documentation to complete their registration at the time of their registration meeting.



Assessment posts

- Requests assistance from individual DHBs and senior clinical staff with assessment for registration within a provisional vocational scope of practice, under the auspices of the relevant medical college.
- Clearly defined objectives and outcomes must be established where a doctor is required to go offsite for assessment.
- Help provide assessment posts if possible in conjunction with other DHBs for smaller hospitals.
- Establish clearly defined objectives and outcomes where a doctor is required to go offsite for assessment.

Practising certificates

- Sends out invitations to doctors to renew their practising certificates to the doctor by email 6 to 8 weeks prior to the practising certificate expiry date.
- Completes processing of applications and issues practising certificates within 20 working days of receipt of the application if no issues are highlighted.
- Will send lists of all doctors within the DHB whose practising certificate is to expire 2 weeks before expiry and immediately after expiry.
- Ensure all doctors employed and working in the DHB have current practising certificates.
- Ensure that the practising certificate for doctors practising under Council approved supervision, allow them to practise at the relevant hospital, clinic or other location.
- Ensure that a system is in place for reviewing practising certificates at least annually to ensure that all doctors employed in the DHB are:
 - practising with a current certificate, practising within the documented scope of practice, and
 - meeting any conditions placed on their practising certificate or scope of practice.

Orientation, induction and supervision of international medical graduates

- Will maintain an *orientation, induction and supervision* resource detailing Council expectations of employers and supervisors of doctors practising under supervision in a provisional general, provisional vocational or special purpose scope of practice, or returning to practice in Aotearoa New Zealand.
- Ensure all doctors entering the DHB are orientated to Aotearoa New Zealand medical practice and inducted to the organisation and individual service.
- Ensure Council's requirements for orientation, induction and supervision are met, as detailed in Council's *Orientation, induction and supervision resource*.

Supervision of IMGs

- Provide clear guidance on the requirements for individual supervision plans.
- Provide training and support for supervisors, at the request of a DHB.
- Will work collaboratively with DHBs to find solutions in situations where supervision arrangements have broken down.
- Submit an individual supervision plan for each doctor registered in a provisional general, provisional vocational or special purpose scope of practice.
- Ensure appropriate supervision is in place for all supervised doctors employed in the DHB and communicate to doctors their professional responsibility to ensure they are actively taking part in supervision.
- Ensure the supervisor is able and has adequate non-clinical time allocated to:
 - review practice adequately including directly observing their practice as necessary
 - monitor the doctor's performance
 - report on progress (or lack of) to the Council.
- Encourage and support supervisors to attend the Council's training and pass knowledge on to colleagues that have not attended training.
- Ensure 3-monthly reports are completed provided to the Council within 7 days of the end of each 3-month period.
- Ensure systems are in place for managing situations where supervision arrangements have broken down. Appropriate steps will be taken including submitting a new proposed supervision plan to the Council.

Recertification

- Will set requirements for vocational medical training and recertification of vocationally registered doctors through the accreditation standards for training providers of vocational medical training and recertification programmes.
- We will set requirements for recertification of general registrants through the *Inpractice* programme administered by bpac^{nz}.
- Undertakes audits to ensure compliance.
- Provide an environment that supports learning and development, and which allows the doctors employed in the DHB to fulfil their recertification and accreditation requirements.
- Support the implementation of regular practice review (RPR).
- Check that doctors practising under their general or a vocational scope, employed in the DHB, are participating in relevant Council-approved recertification or vocational training programmes at annual appraisals and/or credentialling. Ensure the doctor's recertification

activity is appropriate for the scope of their work and intended professional development.

- Encourage progress through vocational training programmes.
- Clinical leaders engage with colleagues about the most appropriate and effective use of continuing medical education (CME) monies.

Environment for intern learning

- Accredits the hospital as a suitable place for intern learning.
- Contracts and pays an honorarium to intern supervisors for the Council's work.
- Consults with CMOs in the selection of prevocational educational supervisors.
- Provides training and support for prevocational educational supervisors.
- Ensure quality training is provided to interns (PGY1 and PGY2, including doctors who have sat and passed NZREX).
- Support clinical supervisors in the supervision and training of interns.
- Ensure that each prevocational educational supervisor is allocated 0.1 FTE protected time for up to 10 interns to carry out the functions of the role.
- Ensure that CMOs contribute to the selection and ongoing oversight and support of prevocational educational supervisors.
- Work within the Council's requirements for interns on:
 - maintaining an accurate list of clinical supervisors on each clinical attachment
 - accrediting clinical attachments
 - orientation to the training provider and individual clinical attachments
 - ensuring clinical supervisors are meeting the requirements set out in the accreditation standards for training providers and the accreditation standards for clinical attachments
 - ensuring beginning, mid and end of clinical attachment meetings are undertaken, and comments recorded in the intern's ePort in a timely manner
 - night cover arrangements
 - emergency department arrangements
 - informed consent

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- protected formal teaching time and informal teaching and education for interns.
 - Ensure that the CEO and the CMO are available to meet with the Council's accreditation team, on the day of the accreditation visit by the Council.
 - Ensure a culturally safe and supportive environment for interns, including acknowledgement of and action taken to address cultural loading in the workplace.
 - Work with vocational training and recertification providers to reduce the need for doctors to duplicate activities related to professional development, continuing medical education and credentialing processes.

Competence and conduct

- Will, upon receipt of formal notification of competence/conduct issues, act promptly to inquire into the matter and consider competence review or referral to a professional conduct committee.
- Will endeavour to ensure performance assessments are completed within 6 months of notification.
- Where there is a risk of serious harm, the Council will consider conditions and possible interim suspension, and whenever possible liaise with the DHB to manage possible risk in the meantime.
- Provide competence and conduct workshops for appropriate staff at DHBs.
- Will advise the CMO of a DHB of any voluntary undertakings, any interim suspension or conditions imposed on a doctor employed by the DHB during or following any conduct or competence process.
- Promptly notify the Council of:
 - changes or restrictions placed on a doctor's practice because of competence/conduct issues that do not reach the threshold for referral to the Council
 - concerns about competence/conduct not able to be dealt with within the DHB system
 - any doctor who has left a DHB after conduct or competence concerns have been raised, irrespective of the status of any investigation.
 - any doctor who has left a DHB because of competence/conduct concerns.
- Ensure patients are not at risk while competence/conduct concerns are being reviewed.
- Have an effective system to respond to concerns about practice.
- Ensure notification is sent to the Council when there is a suspension of a doctor or termination of employment.
- Provide follow up information to Council promptly on request, after taking any necessary advice.



Upskilling

- Develops objectives for competence and educative programmes required after a competence review shows that a doctor fails to meet required standards of competence.
- Develops individual recertification programmes to address areas where upskilling may be required.
- Assist the Council with supervision and time related to competence programmes and individual recertification programmes. Facilitate other step, such as leave to allow further retraining, to remedy the skill deficiencies.

Management and sharing of information regarding doctors who are not employees of a DHB

- Where an order or direction is made by the Council, or when the Council orders a PCC or PAC likely to impact on a DHB, publication of the order or direction will be made to the CMO.
- Where a notice is issued under section 35 of the HPCAA, the Council will request that the Ministry of Health advise any affected DHBs of the notice.
- The Minister's office will be advised of any actions taken by the Council under this part of the MoU.
- Should the Council decide to publish an order in any public media, it will first consult with the relevant DHB(s).
- Will advise the CMO when representatives of the Council are visiting a DHB for any reason.
- On receipt of any order or notice, confirm receipt to the Council.
- Following receipt of information from Council the CMO will ensure relevant people within the DHB are notified as appropriate. This includes the CMO liaising with the relevant HoD, Clinical Director or supervisor.
- Liaise with the Council on a plan to monitor the order or notice and to determine if specific action is required to ensure public health and safety.
- Advise Council of all information it has or receives in relation to the doctor.

Health

If there is a reason to believe a doctor is not fit to practise because of a mental or physical condition, the Council will notify the DHB where there is:

- a risk of harm or serious harm arising from a doctor's practice
- a suspension
- conditions or other limitations placed on the doctor's practice
- a review if agreed by the Council.

Note: *Doctors and those that employ doctors have a duty to report to the Council under section 45 of the HPCAA if there is reason to believe the doctor is not fit to practise if, because of a mental or physical condition, he or she is not able to perform the functions required for the practice of medicine.*

Those functions would include:

- *the ability to make safe judgements*
- *the ability to demonstrate the level of skill and knowledge required for safe practice*
- *behaving appropriately*

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- Ensures assessments are completed to determine if a doctor is fit to practise.
 - Agrees on voluntary agreements with doctor to maintain the doctor in safe practice and to ensure the DHB is aware of any relevant health issues requiring management.
 - CMOs will be the key workplace contact for sharing information relating to health concerns, and the prevocational education supervisor for PGY1s.
- *not risking infecting patients with whom the doctor comes in contact and*
 - *not acting in ways that impact adversely on patient safety.*
- DHBs will support this by:
- Ensuring concerns are identified and notified through their clinical governance process.
 - Developing 'back to work' programmes and notify the Council's Health Manager if required.
 - Assisting with monitoring in workplace.
- Ensuring appropriate processes are in place to implement any reasonable changes in the scope of practice (including changes to practising certificate).

Statements and guidelines

A current list of all the Council's statements and guidelines can be accessed online [here](#).



Appendix – Information sharing framework

Overarching purpose

This appendix to the MoU documents our joint commitment to work with each other to share information needed to fulfil our roles to ensure the health and safety of the public.

Information shared

The information to be shared includes:

- Regulatory information (for example doctor's registration numbers).
- Doctor practice information (including conduct and competence).
- Personal health information about identifiable individuals.

In most cases information will be shared by informing the Chief Medical Officer (CMO) and will be provided by email. There may be occasions where it is necessary to inform other individuals at a DHB of Council processes to ensure public health and safety.

Legal framework

Information we share must be done lawfully under the Privacy Act 2020 (Privacy Act), the Health Information Privacy Code 2020 (HIPC), and the Health Practitioners Competence Assurance Act 2003 (HPCAA). We must each act in a manner consistent and compliant with these, and other legislation governing each of us, which may include:

- The Medicines Act 1981 and Medicines Regulations 1984
- The Health Act 1956
- The New Zealand Public Health and Disability Act 2000
- The Misuse of Drugs Act 1975 and the Misuse of Drugs Regulations 1977
- The Official Information Act 1982
- Any further relevant legislation.

For the avoidance of doubt, this protocol does not supersede the Privacy Act, the HIPC, obligations under the HPCAA, and medicines and drug legislation. Our expectation is that it will facilitate satisfying our obligations under this legislation while enhancing system function through specific, consistent, and effective information sharing.

In particular:

- Information should be obtained from the doctor concerned unless one of the exceptions in Information Privacy Principle (IPP) 2 or any other statutory provision applies.
- Information will be disclosed only where the disclosure is lawful under IPP 11 or any other statutory provision.

Purpose and provision of information

Relevant information is being shared between us for the purposes set out in this document and to ensure that we each have information necessary for us to perform our statutory roles and functions.

The purposes for the sharing of information are to:



- protect the public when there is reason to believe a doctor's practice or behaviour poses a risk to others – early identification of risk can enable us both to act to ensure the risk is managed in the public's interest
- support the mechanisms to ensure doctors are competent and fit to practise.

Information sharing mechanisms

Information should be shared electronically wherever possible, and attachments password protected.

Security and confidentiality

We must each:

- comply with our obligations under the Privacy Act and HIPC, particularly obligations under IPP/Rule 5 (storage and security)
- ensure that the information, and any use of it, is protected from unauthorised access, use and/or disclosure.

If either of us becomes aware of any actual or suspected unauthorised use or disclosure of any information supplied, we must immediately notify the other in writing, and must investigate it.

If either party has reasonable cause to believe that a breach of any security provision has occurred or may occur, that party may undertake such investigation as it deems necessary. The party responsible for any unauthorised use, disclosure, or breach of security is responsible for liaising with the affected individual(s).

Where an investigation is undertaken, the other party will provide reasonable assistance and must be kept informed of progress.

Destruction of information

As required by IPP 9, information will be securely destroyed by parties once it is no longer required for the purposes that it was provided. The 'required period' may differ between parties.



1 When the DHB is the notifier

a. Notifications

All notifications are referred to the Council's Notification's Triage Team (NTT). This includes notifications about a doctor's competence, behaviour, or health. We address these separately below.

The Council will inform the DHB of decisions made by the NTT, Registrar on advice from the NTT, or later a decision by a full meeting of Council. These outcomes could be:

- not to take any further action
- to ask the Health Team/Committee to follow up the notification with the doctor and the DHB
- to request that the doctor consent to a Preliminary Competence Inquiry
- to send an educational letter to the doctor
- to refer the notification to a Professional Conduct Committee (PCC) for investigation (see below). The DHB will be given the opportunity to comment on the PCC membership.

The Council will also inform the DHB where, in response to its notification, any of the following orders are made:

- the doctor is to undergo a performance assessment
- conditions are placed on the doctor's practice
- the doctor's practising certificate is suspended.

b. Voluntary undertakings

A doctor may enter into a voluntary undertaking with the Council, in relation to their performance or conduct. Council's practice is, as far as possible, to obtain the doctor's consent to inform the doctor's employer and potential employers. If the doctor gives their consent, we will tell the DHB of the existence of the voluntary undertaking, including the scope of any limitations and requirements needed for the doctor's practice. We may also tell any other employers (including future employers during the term of the undertaking), facilities they are credentialed with, and anyone working in association or partnership with the doctor.

c. Risk of harm

If the Council has reason to believe that a doctor's practice poses a risk of harm to the public, it will provide the DHB with written notice of the circumstances that have given rise to that belief. This is irrespective of whether the DHB is the notifier or not. The concerns could be about the doctor's practice, health or conduct.

The Council will also inform the DHB if it later decides that the doctor's practice no longer poses a risk of harm to the public.

d. Performance/Competence

If we receive a notification from a DHB about the **competence** of a doctor who is employed at the DHB, we will:

- inform the DHB that a preliminary competence inquiry (PCI) or performance assessment is to be undertaken at the time the decision is made. This enables the DHB to:
 - support the doctor in their practice

- allow time for the required interviews
- allow arrangements to be made for the appropriate Council agent (PCI interviewer/PAC members) to have access to the required patient records and, for the PAC to visit the doctor at their place of work
- inform the DHB if conditions are imposed on the doctor's practice before or subsequent to the review.

Unsatisfactory result following a performance assessment

The doctor will receive a copy of the PAC's report and be invited to make submissions. Council will then consider these. If Council decides the doctor does not meet the required standard of competence, we will tell the DHB, and provide our reasons. We may also make orders to address the competency concerns. These may include:

- that the doctor participate in an educational programme, sit an exam or assessment, or undergo counselling
- changing a doctor's scope of practice
- including conditions on the doctor's scope of practice
- suspending the doctor.

We will provide the DHB with a copy of an order which outlines the reasoning. These orders and conditions will be recorded on the public register, without the reasons.

We will also tell the DHB if the doctor is required to undergo a follow-up performance review.

Satisfactory result following a performance assessment

If a doctor's performance is satisfactory and no further action is required, we will tell the DHB this is the case and that the process is complete.

e. PCC investigation

If a PCC has investigated a notification made by a DHB about a doctor's **behaviour**, the PCC has an obligation under the HPCAA to keep the DHB informed of its progress along the way. The DHB may also be contacted by the PCC to provide information, to meet with it, and/or provide any submissions it wishes the PCC to consider.

The PCC will tell the DHB once its investigation is complete. The PCC will give the DHB a letter setting out its recommendations or determinations with supporting reasons. (If the DHB is not the notifier we are unable to tell the DHB the outcome of the PCC investigation without the doctor's consent.)

f. Health concerns

Statutory action

The Council refers notifications that a doctor is unwell to its Health Committee (the Committee). If the doctor is unable to practise because of a mental or physical condition (health condition), we can suspend their practising certificate, change the health services that they can perform, or include conditions on their scope of practice.

We may also decide to suspend the doctor's registration if the doctor refuses to have a medical examination or testing required, and they are unable to practise because of ill health.

We can extend, vary or revoke any of the above orders if we think that they are no longer necessary. In all cases, we will give the DHB a copy of these orders. A copy will also be given to any employer or anyone working in association or partnership with the doctor.

Agreements

The Committee prefers to work collaboratively with doctors who have health problems. It has written agreements with doctors including any changes or safeguards required for their practice, therapeutic commitments, external monitoring and review by the Committee.

The agreement has a section which specifies who will be a party to these agreements. If the doctor's mental or physical health condition affects their practice, the DHB will be a party. While we usually liaise through the CMO, we may also make the HoD, PES or head of training a party.

2 When the DHB is not the notifier

Council must balance its statutory obligation to protect the safety of the public with a doctor's right to privacy. Council is therefore limited in what information it may give to DHBs when a third party raises concerns about a doctor working within your DHB. However, in many situations where the statute doesn't enable us to give you information, we will ask the doctor for their consent to do so. Both the DHB and the Council need to be mindful of not breaching a doctor's privacy under the Privacy Act. However, it is stressed that if there is a risk to patient health and safety the DHB will be informed of this as permitted by the HPCAA.

a. Voluntary undertakings

A doctor may enter into a voluntary undertaking with the Council in relation to their competence or conduct. If the doctor provides us with their consent, we will tell you of the existence of the voluntary undertaking, including the scope of the limitations and requirements that are imposed on the doctor's practice. All voluntary undertaking documents include a clause specifying that the doctor is aware the Council will advise their current or and/or any future employers that they have signed an undertaking. Council requires the doctor to inform Council where they are practising and in some cases to have that position approved.

b. Risk of harm

If the Council has reason to believe that a doctor's practice poses a risk of harm to the public, it will provide you with written notice of the circumstances that have given rise to that belief. This is irrespective of whether the DHB is the notifier or not.

The Council will also inform you if it later decides that the doctor's practice no longer poses a risk.

c. Performance/Competence

If the Council decides that a performance assessment is required for a doctor who is employed at your DHB we will inform you:

- inform you that a performance assessment is to be undertaken. This enables you to allow arrangements to be made if any aspect of the performance assessment committee's (PAC) review needs to be done onsite. It also enables the DHB to support the doctor in their practice pending the review. The PAC or the doctor will give the DHB information on what it will need to have access to on the day, and who it will need to talk to at the DHB
- inform you if conditions are imposed on the doctor's practice before or subsequent to the review
- inform the DHB of the outcome of the performance assessment.

Unsatisfactory result following a performance assessment

Having reviewed a doctor's performance, Council may decide that the doctor does not meet the required standard of competence. If this is the case, we will tell the DHB if the doctor is not performing at a satisfactory standard and the reasons for that. We may also make an order to address the remaining competence concerns. Orders concerning competence could require one or more of the following within a specified time:

- that the doctor participate in an educational programme, sit an exam or assessment, or undergo counselling
- changing a doctor's scope of practice
- conditions on the doctor's scope of practice
- suspending the doctor.

We will provide the DHB with a copy of the order, which outlines the reasons. We will also communicate this to other employers, facilities the doctor is credentialed with, or are in partnership or association with. These orders and conditions will also be recorded on the Register without the full reasons.

We will also tell the DHB who employs a doctor if that doctor is undergoing a follow-up performance review. As above, this is appropriate to enable the DHB to support the doctor during their performance review and to facilitate the PAC's visit at their DHB.

Satisfactory result following a performance assessment

If a doctor's performance is satisfactory and no further action is required. We will tell the DHB this is the case, and that the process is complete. You can contact the doctor for further details.

d. Professional Conduct Committee investigation

There is no legal provision in the HPCAA for the Council to advise the DHB if a notification concerning a doctor it employs is referred to a PCC. We encourage the doctor to do so. The doctor may also have an obligation in their employment agreement to disclose this to the DHB.

If a doctor is convicted of a specified offence, we can order the doctor to undergo a medical examination and treatment, psychological or psychiatric examination, counselling or therapy, or alcohol and drug abuse treatment or therapy. We will provide a copy of that order to:

- the DHB that employs the doctor; and
- other DHBs the doctor may work in , or those who work in partnership or association with the doctor.

The copy of the order will include the reasons for the order. This information is not available on the Register.

e. Decisions to suspend a doctor's practising certificate or to impose conditions

We may decide to suspend a doctor's practising certificate or include conditions on their scope of practice if:

- a doctor's performance has been, or is going to be reviewed; and
- there are reasonable grounds for believing that the doctor poses a risk of serious harm to the public
- the doctor's conduct casts doubt on their appropriateness to practise.

A decision to suspend a doctor's registration or impose conditions on their scope of practice will always be recorded on the public Register. The fact of the suspension or condition is public information, even though the reasons for the decision are not.

In addition, a copy of the order imposing conditions on, or suspending the doctor's practising certificate will be given to:

- the DHB that employs the doctor; and
- DHBs who work in partnership or association with the doctor.

The copy of the order that's provided will include the reasons for the making of the order. This information is not the Register.

We will also tell anyone else who we think should know of the order if it would protect public health and safety. Rather than give people in this category a copy of the order, we will only tell them the doctor's name and the effect of the order. We will also provide a summary of any finding made relating to the doctor.

f. Health concerns

Statutory action (see also 1f)

The Health Committee (the Committee) receives notifications from a variety of sources. It can make orders when a doctor's practice is affected by a health condition that prevents them from practising medicine safely. These are:

- suspending the doctor's practising certificate
- suspending the doctor's registration
- changing the health services that the doctor is allowed to perform
- including conditions on the doctor's scope of practice.

If you are the DHB employing that doctor, or working in association or partnership with that doctor, you will receive a copy of the order.

Agreements

The Committee prefers to work in a collaborative way with doctors with health problems. Instead of using its statutory powers, it seeks written agreements with doctors, which including any changes or safeguards required for their practice, therapeutic commitments, external monitoring and review by the Committee.

The agreement has a section which specifies who will be a party to these agreements. If the doctor's mental or physical health condition affects their practice, the DHB will be a party. While we usually liaise through the CMO, we may also make the HoD, PES or head of training a party to the agreement.

Disclosures made on applications for registration (non PGY1)

Every doctor applying for registration must state if they have ever been diagnosed with, or assessed as having, a medical or physical condition with the capacity to affect their ability to perform the functions required for the medical practice. Council uses this to determine a doctor's fitness for registration and to practise.

Certain conditions may impact on a doctor's particular scope of practice, such as epilepsy (even if there is good seizure control), severe arthritis, a transmissible major viral infection (highly infectious stage) or an ongoing mental health problems. We will check if this information has been disclosed as part of their occupational health screen or the recruitment process, and if not ask the doctor to inform an appropriate person in the workplace, such as the HoD.

Disclosures from new graduates on application for registration for postgraduate year 1 (PGY1)

Applicants must state if they have ever diagnosed with, or assessed as having, a medical or physical condition with the capacity to affect their ability to practise. The universities of Otago and Auckland must tell us if a student completing a course would be unable to perform the functions required to practise medicine.

If certain conditions may affect them during PGY1, such as relapsing or ongoing mental health issues, physical health conditions, a transmissible major viral infection (highly infectious stage), we will ask them:

- to disclose this in their occupational health screen
- inform the prevocational education supervisor (PES), and in necessary cases follow up to see this has occurred.

If a particular run should be avoided in the first or second quarter, we will contact the RMO Unit and/or the PES to facilitate a change.

3 Informing Council of concerns

Under s118(f) of the HPCAA, Council may receive information from any person about the practice, conduct or competence of a doctor and, if appropriate to do so, act on that information.

If at any time a concern arises about a doctor that they may pose a risk of harm to the public by practising below the required standard of competence, a DHB may inform Council of the reasons for this.

If a doctor employed by the DHB resigns or is dismissed from their employment for reasons relating to competence the DHB must inform the Council of the reasons for their resignation or dismissal. This is required under s34 of the HPCAA. This section of the HPCAA provides that no action can be taken against an individual or organisation who made a notification in good faith.

The Employment Court confirmed that the parties in an employment dispute cannot contract out of mandatory reporting duties under the HPCAA through a settlement agreement.

Definitions

Preliminary Competence Inquiry

The purpose of the Preliminary Competence Inquiry (PCI) is to provide the Council with more information about a doctor's practice to make a decision on next steps (if any). PCIs can be ordered by the NTT, or later by Council, and involve an interview with the doctor and a clinical records review. The PCI is voluntary and is not a full performance assessment. The Council's authority to request a PCI is part of the inquiry function as set out in s36 of the HPCAA.

Performance Assessment

A performance assessment is only ordered by a full meeting of Council and is a full consideration of all aspects of a doctor's practice under s36 of the HPCAA. Council may establish a Performance Assessment Committee (PAC) to carry out a comprehensive review of the doctor's performance, including a review of clinical records, prescribing information, interviews with colleagues and on-site visit by the PAC in which members will observe patient consultations.

Council will advise the DHB of the outcome of any performance assessment, either in its capacity as the notifier or the doctor's primary employer.

Professional Conduct Committee

The PCC is an independent body appointed by Council to investigate concerns raised about a doctor's conduct. PCCs can be ordered from NTT (by delegation to the Registrar) or by a full meeting of Council. The PCC may request information from individuals, employers and other agencies as part of its investigation and all information will be disclosed to the doctor. The PCC will consider all information and make a determination available to it under the HPCAA.

