**Canberra Health Services**

**Procedure**

**Reviewing the Clinical Scope of Practice of a Practitioner**

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| Purpose |

This procedure outlines changes in credentialing or scope of practice processes where concerns are raised about the clinical competence of a doctor or dentist; or the organisation cannot, or elects not to, provide the facilities and clinical or non-clinical support services necessary for safe service provision.

This procedure replaces all previous policies and procedures, created by Canberra Health Services (CHS) or its predecessors, relating to the review of the clinical competence of a medical or dental practitioner once initially credentialed.

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| Alerts (if applicable)  |

Not applicable.

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| Scope |

This procedure applies to:

* Senior medical and dental practitioners with permanent or fixed term appointments or contracts, irrespective of the nature of the contractual arrangements, including locums or practitioners appointed on an urgent basis (such as in an emergency or a disaster situation).
* Junior medical officers of all grades, including registrars and trainees, staff in non-accredited training positions and career medical officers, will be managed through their respective departments and departmental oversight arrangements.

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| Section 1 – Clinical Competence |

Clinical competence is a broad term describing the demonstrated ability to provide health care services at an expected level of safety and quality.

The act of credentialing, and the subsequent ability to practice in a scope of clinical practice, involves delineating the extent of an individual medical practitioner’s clinical practice within a particular organisation based on the individual’s:

* Credentials
* Competence
* Performance and professional suitability

and the needs and the capability of the organisation to support the medical practitioner’s scope of clinical practice.

On occasions practitioners may be referred to the Medical and Dental Appointment Advisory Committee for consideration of changes to their credentialing status or changes to scope of practice where clinical competence is an issue.

This process is separate to, and not a substitute for, management of behavioural or performance matters as part of an employment relationship managed in accordance with Section N of the *ACT Public Service Medical Practitioners Enterprise Agreement*. However one outcome of revocation of credentialing, as a form of limiting scope of practice, may well be termination of engagement of a practitioner.

The content of this procedure is directly informed by *Health Act 1993* (ACT) Republication No 43, Effective 24 August 2022, and the Australian Council for Safety and Quality in Health Care (now known as the Australian Commission on Safety and Quality in Health Care), Standard for Credentialling and Defining their Scope of Clinical Practice (published July 2004).

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| Section 2 – Investigation, Review and Assessment Process |

## Refer to Attachment 1. Flow chart

## Overview

In the course of an investigation into a complaint about a practitioner, or any other indication where the quality or safety of care provided has fallen below the required standard, the responsible manager may request (in writing or verbally) the Medical and Dental Appointments Advisory Committee (MDAAC) consider[[1]](#footnote-2):

* change in scope of practice
* change in credentialing status.

In exercising its functions, MDAAC:

* must comply with the rules of natural justice
* is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate
* may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

The MDAAC will make a recommendation in the Scope of Clinical Practice Report to the Chief Executive, Canberra Health Service, outlining if:

* the scope of clinical practice of the practitioner should stay the same, be amended or be withdrawn
* the terms of engagement of the practitioner by the health facility should be amended
* the engagement of the practitioner by the health facility should be suspended or ended.

The Chief Executive makes a decision based on the report and informs the practitioner and other relevant parties of their decision.

## Recommendation Notice

When a recommendation has been made, MDAAC is required to provide the practitioner with a written Recommendation Notice stating:

* the proposed recommendation
* the reasons for the recommendation
* the option for the practitioner to make a submission to the committee about the proposed recommendation.

## Scope of Clinical Practice Report

When MDAAC have been asked to review the scope of clinical practice of a practitioner, it will consider the information in the Recommendation Notice along with any submissions made by the practitioner in response to the Recommendation Notice. The completed review will be outlined in the Scope of Clinical Practice Report, and given to the Chief Executive for a decision.

## Assessment Process

All non-urgent referrals to the MDAAC, in its capacity as the Scope of Clinical Practice Committee as designated under the ACT *Health Act 1993*, will be reviewed as follows:

* the referring person will provide a brief and/or written report to the Committee.
* if the referral contains sufficient information for a decision to be made, the Committee can make a recommendation at that time.
* if the Committee considers further investigations are warranted, it will convene a subcommittee to do so.

**Note:** Anyone may be asked to give the Committee information, including protected information. Under the *Health Act 1993* if someone gives information honestly and without recklessness, this will not be considered a breach of confidence, a breach of professional etiquette or ethics, or a breach of a rule of professional conduct. The person providing information does not incur civil or criminal liability only because of giving information.

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| Section 3 –  Fairness and Procedural Obligations |

The MDAAC must provide an opportunity for a practitioner to respond to a review of the scope of practice of a practitioner.

The Committee must give the practitioner a written notice in the form of a Recommendation Notice stating:

* the Committee’s proposed recommendation
* the reasons for the committee’s proposed recommendations
* the practitioner may, no later than 21 days after the day the Recommendation Notice is given to the practitioner, make a submission to the Committee about the proposed recommendation.

MDAAC will consider any submission made by the practitioner in accordance with the Recommendation Notice in preparing the scope of clinical practice report for the Chief Executive to make a decision.

Where MDAAC has undertaken a review of a practitioner’s scope of practice, it must be done:

* in a manner consistent with the principles of natural justice
* in a non-punitive manner
* noting that credentialling and defining the scope of clinical practice are organisational governance responsibilities that are always conducted with the objective of maintaining and improving the safety and quality of health care services.

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| Section 4 – Interim or Emergency Decisions on Scope of Clinical Practice |

If the MDAAC make a decision that the clinical practice of a practitioner at a health facility poses a threat to the safety of members of the public, the Committee may recommend to the Chief Executive to withdraw or amend the scope of clinical practice of the practitioner with immediate effect.

This action does not require completion of a review by the Committee and will remain in effect until a decision of the Chief Executive on the Scope of Practice Report in relation to the practitioner takes effect.

In addition, if the Chief Executive has sufficient serious concerns about a practitioner for a health facility to warrant the immediate amendment or withdrawal of the scope of practice of the practitioner, the Chief Executive may, by notice in writing, amend or withdraw the scope of clinical practice of the practitioner with immediate effect.

This delegation does not require a report from MDAAC, and does not require there to be a current investigation into the practitioner’s scope of practice. Thereafter the matter must immediately be referred to MDAAC for investigation.

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| Evaluation  |

**Outcome**

* All concerns raised relating to clinical competence of a doctor or dentist are managed in accordance with this procedure
* All claims raised relating to quality or safety of care provided, which has fallen below the required standard are managed in accordance with this procedure.

**Measures**

* Reports of Scope of Practitioners concerns/complaints are referred to the MDAAC for consideration and review in its capacity as the scope of clinical practice committee.
* When the scope of clinical practice of a Practitioner has been reviewed a report will be given to the Chief Executive.

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| Related Policies, Procedures, Guidelines and Legislation |

**Policies**

* Consumer Feedback Management Policy
* Incident Management – Clinical Policy
* ACT Health Research Practice Policy (DGD15-034)

**Guideline**

* Dealing with Misconduct: A Manager’s guide People & Culture Information Guideline No 1

**Procedures**

* Consumer Feedback Management Procedure
* Incident Management – Clinical Procedure
* Credentialing and Defining the Scope of Clinical Practice for Senior Medical and Dental Practitioners

**Other**

* Resolving Workplace Issues <https://www.cmtedd.act.gov.au/employment-framework/workplace-behaviours/resolving-workplace-issues>

**Legislation**

* *Health Act 1993 (ACT) Republication No 43, Effective 24 August 2022*
* *Health Practitioner Regulation National Law (ACT) Act* 2020
* *Health Records (Privacy and Access) Act* 1997
* *Human Rights Act* 2004
* *Public Sector Management Act 1994*

**Other**

* Australian Charter of Healthcare Rights
* *ACT Public Sector Medical Practitioner Enterprise Agreement.*

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| References |

1. Health Act 1993 (ACT) Republication No 43, Effective 24 August 2022
2. Health Practitioner Regulation National Law (ACT) Act 2020
3. [Dealing with misconduct.docx (sharepoint.com)](https://actgovernment.sharepoint.com/%3Aw%3A/r/sites/Intranet-CHS/_layouts/15/Doc.aspx?sourcedoc=%7B2643D7C0-5E3E-44AC-8B80-2896FECE14EA%7D&file=Dealing%20with%20misconduct.docx&action=default&mobileredirect=true&DefaultItemOpen=1)

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| Definition of Terms (if applicable)  |

**Clinical competence** - refers to the demonstrated ability for a practitioner 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 or concern.

**Credential** – in relation to a practitioner, means endorse the practitioner to provide health services based on verification and assessment of the practitioner’s qualifications, experience, skill, professional standing and any other relevant professional attirbutes.

**Head of Service** – For the purposes of this policy The Head of Service is the Chief Executive, Canberra Health Service.

**Junior Medical Officer (JMO)** – means Intern, Resident Medical Officer, Junior Registrar, Registrar, Senior Registrar and Senior Resident Medical Officer.

**Misconduct** – occurs when an employee fails to meet their obligations outlined in Section 9 of the *Public Sector Management Act 1994*, or engages in conduct that has brought or is likely to bring CHS or the ACTPS into disrepute. Examples of misconduct include: workplace bullying; discrimination; improper use of ACTPS/Territory resources; unauthorised absence without satisfactory reason; failure to notify/disclose; making knowingly false (vexatious) allegations; failure to comply with a lawful and reasonable direction; an employee taking improper advantage of their position.

**Referring person** – is the responsible manager. This could be the Executive Director, Clinical Director, Unit Director.

**Senior Medical and Dental Practitioner** – means a Specialist, Senior Specialist, Visiting Medical Officer or Dentist engaged by Canberra Health Services (CHS) or Calvary Public Hospital Bruce (CPHB).

**Scope of Practice** – of a doctor or dentist for a health facility, means the rights of the doctor or dentist established by agreement between the doctor or dentist and the health facility to treat patients or carry out other procedures at the health facility; or to use the equipment or other facilities of the health facility.

**Specialist** – means a person who is employed by CHS or CPHB in the classification of Specialist as set out in the ACT Public Services Medical Practitioners Enterprise Agreement.

**Standard**  – unless otherwise specified means the Australian Council for Safety and Quality in Health Care, Standard for Credentialling and Defining the Scope of Clinical Practice, published in July 2004.

**Visiting Medical Officer (VMO)** – VMO means a person who is engaged under a service contract as a Visiting Medical Officer (VMO) as defined in the Health ACT 1993.

**The agreement** – Refers to the ACT Public Sector Medical Practitioners Enterprise Agreement.

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| Search Terms  |

Clinical competence, Complaints about doctors and dentists, Complaints, Concerns about doctors and dentists

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| Attachments |

Attachment 1: Clinical Competency Pathway Process Flow Chart

**Disclaimer**: *This document has been developed by Canberra Health Services specifically for its own use. Use of this document and any reliance on the information contained therein by any third party is at his or her own risk and Canberra Health Services assumes no responsibility whatsoever.*

*Policy Team ONLY to complete the following:*

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| *Date Amended* | *Section Amended* | *Divisional Approval* | *Final Approval*  |
| *10/08/2023* | *Complete review* | *Kathryn Daveson, A/g ED of Medical Services Group* | *CHS Policy Committee* |
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*This document supersedes the following:*

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| *Document Number* | *Document Name* |
| *CHHS18/102* | *Reviewing the Clinical Competence of a doctor or dentist following the receipt of a complaint or concern* |
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**Attachment 1 Clinical Competency Pathway Process Flow Chart**



1. See Definition of Terms for relevant definitions [↑](#footnote-ref-2)