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More information

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Introduction

The *Health Services Act 1988* requires private hospitals and day procedure centres in Victoria (health service establishment) to be registered with the department of Health and Human Services (the department) and to comply with updated regulations on patient safety and care.

The regulations that apply are: *Health Services (Health Service Establishments) Regulations 2013*, and the *Drugs, Poisons and Controlled Substances Regulations 2017*.

Under the Health Services regulations, the MAS Leadership team must ensure the implementation and ongoing compliance with quality and safety protocols (hereinafter called “protocols”).

Purpose

MAS protocols determine the accountability of the consultant anaesthetist providing the MAS services, to reduce risk and avoid harm.

The protocols recommend robust governance processes that:

- provide for the internal governance of appointed consultant anaesthetist;
- set out the requirements and procedures for the determination of practice rights and appointment of consultant anaesthetist to provide MAS services;
- provide for conditions of appointment;
- set out clinical credentialing and scope of practice policies; and
- set out requirements and procedures for termination, suspension and variation of appointment (including practice rights) of consultant anaesthetist.

1. Roles and responsibilities

1.1 MAS appointments committee

MAS has an established appointments committee which consists of the General Manager/Director of Nursing and at least one medical leadership member (Medical Advisor) whose roles are to:

- determine scope of clinical practice;
- establish appointment and credentialing processes;
- receive and consider applications from consultant anaesthetists seeking appointment to provide clinical care at MAS;
- make decisions about such appointments, including establishing a consultant anaesthetist’s credentials and eligibility for appointment and determining their scope of clinical practice;

- grant short term practice rights;
- subject to these protocols, take disciplinary action;
- determine how compliance with processes will be implemented and frequency of reviews;
- take other decisions or take other action as specified in these protocols; and
- implement a written open disclosure policy.

2. Appointments and credentialing processes

The MAS appointments committee shall establish appointments and credentialing processes to provide peer-review, advice and assistance in relation to appointment, scope of clinical practice related issues and credentialing.

A consultant anaesthetist must not be appointed without the application having first been considered through the MAS credentialing process.

3. Processes to licence and right to provide MAS services

An appointed consultant anaesthetist has:

- Practice rights at MAS; and
- A licence to enter and to use equipment and facilities of non-registered facilities for the purpose of providing clinical care - subject to and in accordance with:
 - any limitations applicable to the category of appointment;
 - the consultant anaesthetist's scope of clinical practice;
 - the consultant anaesthetist's continuing to comply with all conditions of appointment;
 - the availability of medication (determined by the Drugs and Poisons Health Service Permit issued by the department), equipment, and nursing staff that are sufficient and appropriate for the type of clinical care provided by the consultant anaesthetist's; and
 - such other conditions, limitations or restrictions as may be imposed in accordance with these protocols.

4. Application for appointment

4.1 Eligibility for appointment

A consultant anaesthetist is eligible to be appointed to provide clinical care at facilities determined by MAS if, and only if:

- the consultant anaesthetist is a registered medical practitioner with the Medical Board of Australia or any successor body;

- the consultant anaesthetist holds appropriate medical indemnity insurance in respect of their scope of clinical practice or proposed scope of clinical practice and consistent with organisational policy requirements;
- the consultant anaesthetist does not have a conflict of interest with MAS; and
- the consultant anaesthetist agrees to adhere and uphold the MAS code of conduct at all times.

4.2 Application to be made to the MAS appointments committee

A consultant anaesthetist seeks to be appointed to provide clinical care for MAS must submit a MAS Application for accreditation form.

4.3 Contents of application

The application must be submitted electronically and must specify the consultant anaesthetist's proposed:

- scope of clinical practice;
- notice of any current investigation by AHPRA into the consultant anaesthetist activities;
- details of any criminal convictions;
- be accompanied by the information and documents set out on the application form; and
- contain a declaration signed by the applicant.

5. Determination of application for appointment

5.1 The appointments committee

The appointments committee may obtain further information as considered necessary to properly consider an application for appointment, including:

- interview of the applicant (which may be conducted by a member of the appointments committee);
- requiring the applicant to provide further information or documents; and
- in accordance with authorisations provided by the applicant, to consult with or obtain information from the applicant's referees, medical indemnity insurer, previous employers, the medical board and any other persons the committee considers may be able to provide information relevant to the application.

The applicant must provide such further consents and authorisations as are reasonably requested by the appointments committee to enable information about the applicant to be obtained for the purpose of considering the application.

5.2 Consideration of application

In considering an application for appointment (including the proposed scope of clinical practice) the appointments committee may have regard to:

- the training, formal qualifications (including any college fellowships) and professional competence and performance of the applicant;
- the character, professional standing, reputation and experience of the applicant;
- the values, resources, needs, expectations, priorities and strategic directions of MAS;
- the availability at MAS of appropriate equipment, facilities and staff to support the provision of safe, high quality patient care within the proposed scope of clinical practice; and
- any other matter the appointments committee considers to be relevant.

6. Appointment and credentialing processes

6.1 The appointments committee may grant or refuse application for appointment

The appointments committee shall not grant an application for appointment unless:

- the appointments committee is satisfied that the applicant is eligible for appointment;
- the appointments committee is satisfied that the applicant will not compromise the delivery of safe clinical care and efficient operation of MAS or the interests of patient care.

6.2 Short term (probationary and emergency) practice rights

The appointments committee may determine that a consultant anaesthetist who is eligible for appointment – but is not appointed – should be granted practice rights on a short-term basis, if the appointments committee is satisfied that the practitioner:

- should undergo a period of probation in order to enable his or her suitability for appointment to be further assessed or confirmed; or
- should be given practice rights on a locum or similar short-term basis in the interests of a patient receiving clinical care at MAS; or
- urgently requires practice rights in order to avert a threat to the life of, or other serious harm to a patient.

Where the appointments committee decides to grant short term practice rights in accordance with **6.2 Short term practice rights** (above), the appointments committee shall:

- determine the consultant anaesthetist's scope of clinical practice;
- specify a maximum period (not exceeding 6 months) during which the consultant anaesthetist may exercise those practice rights;
- the consultant anaesthetist is not an appointed member of the MAS medical staff during the period; and

- the consultant anaesthetist must comply with any requirements and conditions specified by the appointments committee including, so far as is applicable having regard to the term and purpose of the short-term practice rights, the general conditions of appointment determined by the appointments committee.

6.3 Scope of clinical practice

The appointments committee must specify the scope of clinical practice for every appointed consultant anaesthetist and every consultant anaesthetist who is granted short term practice rights.

In doing so, the appointments committee may:

- identify practices or procedures that the consultant anaesthetist may only undertake or perform as special privileges;
- exclude from the scope of clinical practice practices or procedures which would normally be considered to fall within the scope of clinical practice of a consultant anaesthetist having the qualifications of the applicant;
- specify a period for which the consultant anaesthetist may exercise practice rights which is less than the maximum appointment period; and
- limit the scope of clinical practice by reference to any matter he or she considers relevant, including:
 - the MAS nominated facilities at which the practices or procedures may be undertaken or performed; and
 - the range of practices and/or procedures that may be undertaken or performed; and
 - the number of practices and/or procedures that may be undertaken or performed in a specified period; and
 - that practices or procedures must be subject to supervision and/or audit.

6.4 Conditions of appointment

Every appointment of a consultant anaesthetist shall be:

- for a period of up to three years;
- subject to the special conditions specified in relation to the appointments committee's appointment;
- subject to any general conditions of appointment determined by the appointments;
- subject to any other conditions or limitations the appointments committee considers appropriate (including conditions or limitations as to scope of clinical practice).

7. Suspension, variation or termination

7.1 Grounds for remedial action

The appointments committee may take remedial action in respect of an appointed consultant anaesthetist if it is believed that one of the following grounds exists:

- the consultant anaesthetist has engaged in notifiable conduct;
- the conduct, competence or performance of the consultant anaesthetist is such as to put at risk;
- the safety, health, wellbeing or welfare of any patient receiving care from MAS and/or staff member;
or
- the good standing and reputation of MAS.

The consultant anaesthetist has acted in a manner that is inconsistent with MAS values:

- the consultant anaesthetist has contravened these protocols;
- the consultant anaesthetist has contravened the conditions of appointment;
- the consultant anaesthetist has ceased to be eligible for appointment;
- the continuing appointment of the consultant anaesthetist will compromise the efficient operation of any site or the interests of MAS generally.

7.2 Types of remedial action

If grounds for remedial action exist, the appointments committee may do one or more of the following with respect to a consultant anaesthetist:

- give a formal warning;
- vary, limit or suspend his or her practice rights; or
- terminate his or her appointment.

7.3 Procedure for remedial action

The appointments committee must not take remedial action in respect of a consultant anaesthetist unless they have first:

- given the consultant anaesthetist written notice;
- setting out the remedial action proposed to be taken;
- setting out the grounds for the proposed remedial action (including details of any allegations or factual circumstances on which such grounds are based);
- stating that the consultant anaesthetist may make a submission as to why the proposed remedial action should not be taken and specifying a reasonable time (which must not be less than 14 days) within which the consultant anaesthetist may do so; and
- had regard to any relevant matters put by the consultant anaesthetist in any submission given in response to the notice.

The appointments committee shall consider and determine the remedial action or proposed remedial action in an unbiased manner.

7.4 Formal warning

If the appointments committee considers that grounds for remedial action exist but the circumstances do not warrant variation, limitation or suspension of practice rights or termination of appointment, the appointments committee may give the consultant anaesthetist a formal warning.

A formal warning must be recorded in writing.

Where the appointments committee gives a formal warning to a consultant anaesthetist, the appointments committee shall provide such support and assistance (if any) that they consider appropriate to the consultant anaesthetist to improve his or her performance or correct unsatisfactory behaviour.

If the appointments committee considers that grounds for remedial action exist in respect of a consultant anaesthetist who has been given a formal warning on two previous occasions, they must not give any further formal warning but must take such other remedial action as they consider appropriate. The remedial action may be to vary, limit or suspend practice rights.

8. Review of scope of clinical practice and variation of practice rights

The appointments committee may at any time undertake a review of an appointed consultant anaesthetist's scope of clinical practice and practice rights. Such a review may take into consideration the following, but not limited to:

- safety and quality concerns relating to a consultant anaesthetist's practice;
- resource implications for MAS relating to a consultant anaesthetist's practice;
- financial effects of a consultant anaesthetist's practice on MAS; and
- alignment or misalignment of a consultant anaesthetist's practice with the strategic direction of MAS.

8.1 Procedure for review

The appointments committee must not vary, limit or suspend the consultant anaesthetist's practice rights unless he or she has first:

- given the consultant anaesthetist written notice:
 - i. setting out how the practice rights are proposed to be varied, limited or suspended;
 - ii. setting out the grounds for the proposed variation, limitation or suspension; and
 - iii. stating that the consultant anaesthetist may make a submission as to why the practice rights should not be varied, limited or suspended and specifying a reasonable time (which must not be less than 14 days) within which the consultant anaesthetist may do so.

- had regard to any relevant matters put by the consultant anaesthetist in any submission given in response to the notice.

The appointments committee shall consider and determine any matter in relation to a consultant anaesthetist's scope of clinical practice and practice rights in an unbiased manner.

8.2 Notice of variation, limitation or suspension of practice rights

If the appointments committee decides to vary, limit or suspend the practice rights of an appointed consultant anaesthetist, the appointments committee must give written notice to the consultant anaesthetist setting out:

- the effect of the variation, limitation or suspension;
- the date from which it is to take effect;
- its duration (if it is to be take effect for a limited time); and
- the right (if any) of the consultant anaesthetist to seek review of the decision.

8.3 Immediate variation, limitation or suspension of practice right

If the appointments committee suspects that the conduct, competence or performance of an appointed consultant anaesthetist is such as to give rise to a serious and imminent threat to the safety, health, wellbeing or welfare of any MAS patient or staff member, they may immediately vary, limit or suspend the consultant anaesthetist's practice rights without first complying with clause **8.2 Notice of variation, limitation or suspension of practice rights** (above), but must comply with that clause as soon as practicable after the suspension, variation or limitation takes effect.

8.4 Short term (probationary, temporary and emergency) practice rights

The appointments committee may immediately – and without providing reasons – vary, limit, suspend or terminate short term practice rights accorded to a consultant anaesthetist. The appointments committee must give written notice of any such variation, limitation, suspension or termination.

9. Review of decisions affecting appointment

The procedures in this clause apply where the appointments committee decides to:

- terminate the appointment of an appointed consultant anaesthetist;
- vary, limit or suspend the practice rights of an appointed consultant anaesthetist (other than by immediate suspension); and
- not grant an application from an appointed consultant anaesthetist for a further appointment period.

9.1 No review of decision affecting short term practice rights

A decision to vary, limit, suspend or terminate short term practice rights is not subject to review.

9.2 Application for review

Within 7 days of being notified of a decision, the consultant anaesthetist may apply to the proprietor for review of the decision.

9.3 Review of the decision

The appointments committee may, if they consider it appropriate to do so, establish a panel to review the decision (review panel).

9.4 Review panel

A review panel shall consist of three members, appointed at the discretion of the appointments committee provided that, as far as practicable:

- all members of the review panel shall be specialist consultant anaesthetist; and
- one member of the review panel shall be nominated by the consultant anaesthetist who has requested the review.

The following persons may not be members of the review panel:

- the members of the appointments committee;
- a registered medical practitioner who acted as nominee or delegate of the appointments committee in relation to:
 - remedial action taken; or
 - a proposed variation, limitation or suspension of practice rights; or
 - any other person with a material interest in the outcome of the decision.

9.5 Proceedings of review panel

The review panel may order its own proceedings and inform itself by any means it considers appropriate.

The review panel must give the consultant anaesthetist a reasonable opportunity to show cause as to why the decision should not be confirmed. The consultant anaesthetist may make a written or oral submission and present evidence but is not entitled to be legally represented.

The review panel shall hear and determine the matter before it in an unbiased manner.

9.6 Decision

Having had regard to:

- the reasons for the decision given;
- any submissions or evidence put by the consultant anaesthetist; and
- any advice provided by the review panel — the appointments committee may affirm, vary or revoke the decision

The decision of the appointments committee is final.

The appointments committee must notify the appointed consultant anaesthetist of the decision in relation to the review as soon as possible but in any case, within 7 days of the decision.

9.7 Variation, limitation, suspension of practice rights by agreement

The practice rights of a consultant anaesthetist under these protocols may be varied by agreement between the consultant anaesthetist and the appointments committee.

10. Information

10.1 Confidentiality

Subject to these protocols and to disclosures reasonably required to make and implement decisions made in accordance with these protocols, any information obtained by the appointments committee and any other person in connection with the appointment, scope of clinical practice, remedial action or other decision or action authorised or required to be taken under these protocols shall be treated as confidential and must not be disclosed except:

- with the consent of the person to whom it relates;
- for the purpose of disclosing notifiable conduct or making a voluntary notification under the *Health Practitioner National Law 2009*; or
- as otherwise required or authorised by law.

10.2 Appointments committee to be informed about notifiable conduct

If notifiable conduct by an appointed consultant anaesthetist is notified under the *Health Practitioner National Law 2009*, the appointments committee must immediately be informed of the fact and circumstances of the notification.

11. Relationship

Nothing in these protocols creates any relationship of employer/employee between MAS and any appointed consultant anaesthetist.

12. Amendment of these protocols

Only the appointments committee is authorised to amend these protocols and reserves the right to do so from time to time.

13. References

State of Victoria, Australia, Department of Health and Human Services: *Health Service Act 1988*

State of Victoria, Australia, Department of Health and Human Services: *Health Services (Health Service Establishments) Regulations 2013*

State of Victoria, Australia, Department of Health and Human Services: *Drugs, Poisons and Controlled Substances Regulations 2017*

State of Victoria, Australia, Safer Care Victoria: *Credentialing and scope of clinical practice for senior medical practitioners policy 2018*