HEALTH PROGRAM

PARTICIPANT'S HANDBOOK

(January 2011, with amendments June 2013)

FOREWORD

THE HEALTH PROGRAM

This handbook has been compiled to provide you with information about the Council's Health Program and to assist you in your involvement with the Program.

The principal role of the Medical Council of NSW is to protect the public of New South Wales by ensuring that all doctors in the State are fit to practise medicine.

The Health Program (sometimes referred to as the Impaired Registrants Program) is established under the Health Practitioner Regulation National Law (NSW) to enable the Council to deal with impaired doctors and medical students. The Program functions in a supportive and non-disciplinary manner but is backed by Law and some aspects of the Program are mandatory. Most participants come to welcome the structured and transparent approach that the Program provides.

A strong, secondary objective of the Health Program is to maintain participating impaired doctors/students in practice/training when it is safe to do so. The Program also aims to ensure that an impaired student's transition into the medical workforce is as smooth and supported as possible.

The Council believes that the Health Program provides a positive framework to address health issues in a way that is protective of the public and fair to the profession.

Since 1992, many of the participants in the Program have had very positive outcomes. On a more personal note, I would encourage you to use this opportunity to reflect on whether you need to make any changes to maximise your health and to improve you work/life balance. I also hope that the information in this Handbook assists you to make the most of the Program.

If at any time, you have questions or require further information regarding the program, please contact either the Council's Health Program Manager or Monitoring Manager. Their contact details are available near the end of the handbook.

Dr Choong-Siew Yong
Chair
Health Committee
Medical Council of NSW

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SECTION ONE:

THE MEDICAL COUNCIL – ITS ROLE AND RESPONSIBILITIES

The Medical Council of New South Wales is established under the Health Practitioner Regulation National Law (NSW).

The Medical Council of New South Wales provides a range of programs and services aimed at ensuring that all doctors working in NSW are fit to practise medicine at the high standard the public is entitled to expect.

A practitioner's fitness to practise is considered in all of the following domains, as each has the potential to impact on the quality of the service delivered to patients.

1. Health (Managed by the Council's Health Section)
   Medical practitioners' personal health may impact on their capacity to practise medicine safely and effectively.

2. Professionalism (Managed by the Council's Performance and Conduct Sections)
   - Professional expertise

   Medical practitioners must possess a large body of up to date knowledge and procedural skill.
   - Professional conduct

   Medical practitioners must exhibit behaviours and attitudes that reflect the expectations of those with whom they interact and the society in which they work.

Registrants (doctors and students) whose personal health is impacting on or has the potential to impact on their safe practice of medicine are considered to be impaired and are managed in the Council's Health Program.

SECTION TWO:

THE HEALTH PROGRAM

Overview and definitions

The Health Program is designed to be non-disciplinary and non-adversarial and is conducted under the provisions of the Health Practitioner Regulation National Law (NSW) (hereafter 'the Law'). It is aimed at protecting the public while at the same time allowing participants with health problems to remain in active medical practice or training.

The Program is notification based, receiving both self-notifications and third party notifications. It manages registrants suffering from psychiatric illness, problems with the abuse of alcohol or the self-administration of addictive drugs and occasionally, physical illness. Psychiatric illness and drug and alcohol abuse are of greatest concern to the Council.

What constitutes impairment?

Impairment has a specific, statutory definition in the Law as follows;

> ***impairment***, in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—
>
> (a) for a registered health practitioner or an applicant for registration in a health profession, the person's capacity to practise the profession; or
>
> (b) for a student, the student's capacity to undertake clinical training—
>
> (i) as part of the approved program of study in which the student is enrolled; or
>
> (ii) arranged by an education provider.

The Medical Council of NSW delegates its powers relevant to the Health Program to its Health Committee. The Committee is responsible for all decisions pertaining to Program participants and policy development.

The Committee is comprised of Council and invited members who have an interest in the maintenance and improvement of the health of medical practitioners.

The Committee generally meets on the third Tuesday of the month. Matters for consideration by the Committee must be received by the Council Secretariat no later than close of business on the first Wednesday of the month. It is advisable to contact the Secretariat in advance to discuss the nature of the matter to be reviewed by the Committee.

What about medical students?

The impairment provisions of the Law also apply to medical students. The primary objective of the Program as it applies to medical students is public protection. The Council also aims to ensure that the student's transition into the medical workforce is assisted.

Under the provisions of the Law, the Council may require a medical student to undergo a medical examination where it has concerns that the student suffers from an impairment. In the case of medical practitioners, registration conditions are entered into voluntarily. The

significant difference in the case of medical students is that conditions can be imposed by the Council. The Impaired Registrants Panel is required to consider whether it is in the interest of the public to impose conditions on the student undertaking clinical studies, or to prohibit the student from undertaking clinical studies.

The Process

What can you expect if The Medical Council receives a notification about you?

If you have notified yourself or the Council has received a credible notification about you, the Council first consults with the Health Care Complaints Commission (hereafter HCCC) to ensure that the particulars of the notification do not raise issues more appropriately dealt with in the disciplinary pathway. In cases where some aspect of your conduct in the particular matter is already under investigation by the HCCC, the Council is prevented by the Law from taking action under the provisions relating to health and impairment.

If no issue of professional conduct is raised by HCCC, the notification is referred to the Council for management under the Health Program and the HCCC takes no further part.

The Health Committee then considers the notification, and if further action is required, will require an independent assessment of your health status by a Council Appointed Practitioner (CAP).

What happens if you are referred for an assessment by a Council Appointed Practitioner (CAP)?

If you have notified yourself or the Council has received a credible notification, the Health Committee will usually ask you to attend a Council Appointed Practitioner (hereafter CAP).

The CAP is a health practitioner selected by the Council for their skill in a particular specialty (or sub-specialty). Their role is to make an independent assessment about the extent and nature of your impairment and whether participation in the Health Program is appropriate.

Prior to the initial appointment, the Council will provide the CAP with copies of any information that is relevant to the health notification. CAPs are aware of the Council's responsibility for public protection and will recommend action to the Council on that basis. It is important that you are aware that the assessment by the CAP is medico-legal rather than a therapeutic consultation.

The Council will meet the cost of the assessment and future consultations as required.

If you enter the Health Program, you will generally see the same CAP for periodic review and oversight of your progress. These interviews take place at the request of the Council or in compliance with a condition on your registration. If you require clarification of any aspect of your participation in the Program, please contact the Council Secretariat in the first instance, rather than the CAP.

The Health Committee considers the CAP's report and recommendations in deciding whether to convene an Impaired Registrants Panel (hereafter IRP or Panel). In the event that the concerns raised in the health notification do not require the involvement of the Council no further action will be taken.

What if you cannot attend the appointment with the CAP?

It is important that you let the Secretariat know in plenty of time if you have a good reason why you cannot attend so that the appointment can be changed. If you fail to do this, the Council bears no responsibility for the fees incurred as a result of your failure to attend for an assessment and the accounts will be forwarded to you for payment.

Failure to attend an assessment without alerting the Council will be viewed with grave concern and may constitute *prima facie* evidence of impairment. In the event that you fail to attend for medical examination reasonably requested by the Council, then the Law provides as follows:

152B Council may require registered health practitioner to undergo examination [NSW]

(1) If a Council reasonably believes a registered health practitioner has or may have an impairment, the Council may, by written notice given to the practitioner, require the practitioner to undergo an examination by another registered health practitioner.

(2) The notice must state—

(a) that the registered health practitioner is required to undergo an examination by a registered health practitioner; and

(b) the name of the registered health practitioner who is to conduct the examination; and

(c) if the examination is to be conducted at a particular time and place, the time and the place at which the examination is to be conducted; and

(d) that if the registered health practitioner fails to undergo the examination as required by the notice, the failure may constitute evidence that the practitioner does not have sufficient physical and mental capacity to practise the practitioner's health profession.

(3) The fee charged by the registered health practitioner for conducting the examination must be at the expense of the Council.

(4) If the registered health practitioner fails, without reasonable excuse, to comply with the notice, the failure is evidence the practitioner does not have sufficient physical and mental capacity to practise the practitioner's health profession.

152C Council may require student to undergo examination [NSW]

(1) ….

(2) The notice must state—

(a) ….

(b) ….

(c) ….

(d) that if the student fails to undergo the examination as required by the notice the Council may suspend the student's registration until the student undergoes the examination.

(3) …..

(4) If the student fails, without reasonable excuse, to comply with the notice, the Council may suspend the student's registration until the student undergoes the examination.

(5) ……

What is an Impaired Registrants Panel (IRP)?

An IRP is an inquiry convened under Part 8 of the Law and has the responsibility of inquiring into impairment matters that come to the Council's attention.

The Panel consists of two or three members appointed by the Council. Panelists are drawn from a pool of members, which includes both doctors and lay members, all of whom are experienced in working with practitioners experiencing problems with their health.

IRPs are generally held at the Council premises and last approximately two to three hours.

When an IRP is convened, you are notified and asked to attend. If you fail to attend an IRP, the Council may hold a hearing in your absence and make such findings as are deemed appropriate.

At the IRP, the Panel will talk to you about the nature and extent of your health problem and its impact on your practice of medicine. Toward the end of the hearing, the Panel is likely to adjourn to discuss the matter. The Panel may do any one or more of the following:

(a) counsel you or recommend that you undertake specified counselling;
(b) recommend that you agree to conditions being placed on your registration
(c) recommend that you are suspended from practising medicine for a specified period;
(d) make recommendations to the Council as to any action that the Panel considers should be taken in relation to the matter.

Where a Panel forms an opinion that conditions are required, it will formulate the conditions before reconvening the hearing.

On return from its adjournment, the Panel will explain to you the implications of their decision and the reasons behind it. If conditions or suspension are proposed, they will then be discussed with you and you will be given an opportunity to respond.

Any recommendations by the Panel with respect to conditions will form part of a document known as a *Voluntary Agreement to Conditions of Registration*. This document sets out your responsibilities under the conditions as well as your rights in dealing with the Council. It is important that you read and fully understand this document before you sign it. Questions regarding conditions or suspension should be addressed to the Panel.

Under the Law, conditions arising from an IRP can only be imposed with your voluntary agreement. However, the Law provides that should you fail to agree, the Council may recommend that the matter which was the subject of the initial referral, be dealt with as a complaint against you.

Where the Panel believes your impairment is of such concern that you should not practise, it may recommend to the Council that you be suspended from the practice of medicine for a specified period. This is to ensure that you receive urgent treatment and do not treat patients during that time. In that case, you would be asked to sign an acknowledgment of that notice. The Panel may also recommend actions that will assist in the Council's subsequent decision to lift the suspension. The Inquiry will then adjourn, reconvening prior to the expiry of the specified suspension period to examine any new information obtained in the meantime. Where the Panel's concern has eased sufficiently, you will be asked to agree to conditions being imposed upon your registration and will be permitted to return to work.

Unlike conditions, suspension may be imposed on a practitioner without agreement where the Panel feels that it is warranted and the Council endorses the Panel's recommendation.

By virtue of the National Registration Scheme, registration conditions or suspension arising from the Council's Health Program are applicable throughout Australia.

What happens after an IRP?

The Panelists will prepare a report following the IRP detailing the content of the Inquiry and its recommendations. The report is then considered and endorsed by the Council's Health Committee or its delegates.

Copies of the IRP report are forwarded to you, your treating and Council Appointed practitioners and any other parties specified by the Panel or you.

Will my employers be notified?

The Law requires that the practitioner's employers are advised of the conditions on their registration by the National Board (refer to section 176B on page 58).

After informing the National Board of the conditions on your registration, the Medical Council will write to your employer informing them of any conditions relevant to your practice or employment. The Council exercises as much discretion as possible in the provision of sensitive information regarding your health to employers.

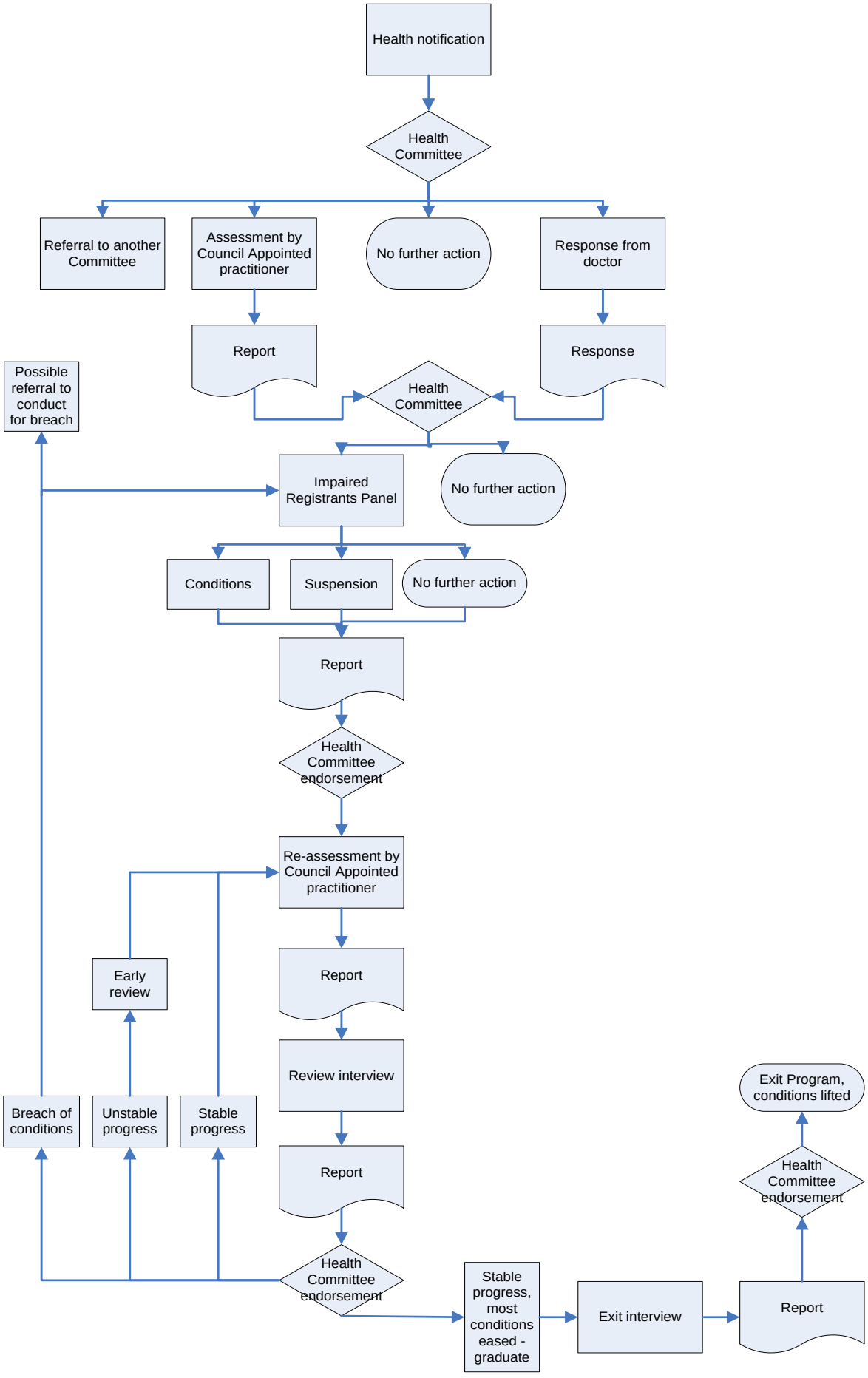
In the event that the Panel wishes to be more directive regarding the provision of information to particular individuals, they may impose conditions as appropriate.

Urgent Action Pursuant to Section 150 of the Law

Should the Council be concerned at any point that you pose a significant threat to public health and safety, or to yourself, the Council may resolve to convene proceedings under section 150 of the Health Practitioner Regulation National Law (NSW).

Such proceedings are convened promptly and are heard by two or three members. The purpose of the proceedings is to decide whether a practitioner requires suspension or registration conditions to ensure that the public is protected. The proceedings can refer a complaint to the HCCC or recommend to the Council that a subsequent Impaired Registrants Panel Inquiry hear the matter.

A flow chart of the Program's process is included on the following page to assist you in understanding the Council's processes.


Health notification
Health Committee
Referral to another Committee
Assessment by Council Appointed practitioner
No further action
Response from doctor
Report
Response
Possible referral to conduct for breach
Health Committee
Impaired Registrants Panel
No further action
Conditions
Suspension
No further action
Report
Health Committee endorsement
Re-assessment by Council Appointed practitioner
Early review
Report
Review interview
Breach of conditions
Unstable progress
Stable progress
Report
Health Committee endorsement
Stable progress, most conditions eased - graduate
Exit interview
Report
Health Committee endorsement
Exit Program, conditions lifted

After an IRP: The Monitoring Program

How does the Monitoring Program work?

The Medical Council monitors your progress through reports received from the CAPs and/or the Council Review Interviews (see section titled *The Council Review Intervie*w). Compliance with conditions is assessed through quantitative tests such as:

- Urine Drug Testing (see section titled Urine Drug Testing – The Council's Protocol) to detect the use of narcotics or other prescription or illicit drugs;
- Carbohydrate-Deficient Transferrin, Liver Function Tests (LFT) and Full Blood Count (MCV) (see section titled Alcohol Testing), which measure excessive consumption of alcohol;
- EtG testing (to detect the presence of alcohol metabolites in urine);
- Hair Drug Testing (see section titled Hair Drug Testing).

In addition, your treating doctors (see section titled *Treating Practitioners*) may be authorised to notify the Council where there is a termination of treatment, failure to attend for treatment or significant deterioration in your health status. These arrangements provide the Medical Council with an overall view of your management and willingness to deal with your health problems appropriately.

Additional conditions may include supervision requirements (see section titled *Supervision)* or maintaining a mentoring relationship (see section titled *Mentor*).

The monitoring program enables you to demonstrate to the Council your compliance with conditions placed on your registration.

Generally, monitoring occurs over a period of several years with a gradual easing of conditions until the Council is satisfied that the participant no longer requires supervision. While this is the part of the program that participants have the most difficulty with, it is important to appreciate that the Council requires objective evidence of your recovery and also receives early warning of deterioration in your health status.

In the case of some long term mental illness, the Council may require continuing, low level monitoring, and exit from the Program may not be the goal.

It is generally the Council's expectation that you will eventually exit the Program when you can demonstrate that you have complied with the conditions of your registration, made the necessary changes to your lifestyle, developed good support networks and recognised the value of early intervention and treatment of your illness.

It is hoped that you will use your time on the Program to reflect, to avail yourself of treatment and also learn new skills.

What about subsequent visits to the Council Appointed Practitioner?

The role of the Council Appointed Practitioner (CAP) when you enter the Program was discussed earlier. This section is about the CAP's role in overseeing how you are complying with the conditions of your registration.

The CAP's role is to provide the Medical Council of NSW with an independent assessment of

your health without intruding on the therapeutic relationship between you and your treating doctors. Attendance with the CAP also provides you with an opportunity to discuss your progress and any difficulties you may be experiencing with the Council's Program and your conditions of registration.

The CAP will prepare a report that will be provided for the information of Reviewers prior to the Council Review Interview. Any recommendations the CAP makes regarding your health or conditions will be discussed at this time.

It is your responsibility to make the required appointment with the CAP prior to a Council Review Interview. Generally, assessment by a CAP should occur approximately four weeks before the Council Review Interview and the appointment should be made well in advance of the required date as an appointment might not be available for some weeks or months. The CAP's report is an essential component of the Council Review Interview process. It is in your interests to ensure that you attend early enough to ensure that the report is received by the Council prior to the Council Review Interview. Please contact the Council Secretariat if you need any clarification.

Whilst it is your responsibility to arrange appointments with the CAP, the Council will meet the professional fees. **Cancellation fees incurred by a failure to attend an appointment will not be met by the Medical Council under any circumstances.** These accounts will be forwarded to you for payment.

Please also note that the Medical Council views non-attendance or attendance after the due date without an acceptable written explanation as a breach of conditions.

If there is a reason why you cannot attend the Council Appointed Practitioner within the specified time frame, please provide the Council with a written explanation.

Treating Practitioners

The Council generally requires you to maintain a relationship with a treating general practitioner (GP). This relationship is essential in demonstrating that you are managing your health appropriately rather than self-treating. A relationship with a GP provides a central point from which your health care can be coordinated and removes the need to self-prescribe and treat.

The frequency of attendance for treatment is at the discretion of you and your GP.

The majority of Program participants will also be required to attend for ongoing treatment with a relevant practitioner of their choice who has recognised expertise to provide effective treatment. This may be a psychiatrist, a specialist in drug and alcohol problems, a physician or a number of such treating practitioners.

You may already be receiving treatment from a specialist. In that case, the Health Program will simply formalise this existing arrangement and provide your treating practitioner with relevant information.

If you have not entered into treatment, the Medical Council will require details of the name and address of the treating practitioner of your choice as soon as practicable. This will enable the Medical Council to forward any relevant documents to him/her.

The Medical Council will not nominate a treating doctor for you and does not require any form of regular reporting from the treating doctor. The frequency of treatment should be at the discretion of you and your treating practitioners. This model has been developed so as not to intrude on the therapeutic relationship between you and your treating practitioners.

The Medical Council does, however, require you to authorise your treating doctors to inform the Council of a failure to attend for treatment, termination of treatment or if there has been a significant deterioration in your health status. This is an important precautionary measure in case there is a lack of insight on your behalf due to a recurrence of an illness or a failure to take responsibility for improving your health.

The Council Review Interview

The Council Review Interview is an essential component of the Health Program. These interviews are generally held at the Council and are of approximately one hour duration. Wherever possible, the Council will appoint interviewers with whom you are familiar eg. original members of your Impaired Registrants Panel, to ensure continuity. Reviewers are provided with a briefing prior to the interview that contains relevant reports such as that from the CAP, correspondence from you and other relevant information. The briefing allows the interviewers to familiarise themselves with your history. You will also be provided with a copy of this briefing.

The Council will write to you advising the date and time approximately six weeks in advance of the Interview. You must confirm your attendance by contacting the Medical Council. If attendance at the time and/or date scheduled for the Council Review Interview is problematic, you should contact the Secretariat as soon as possible to request that an alternative date be arranged. This will occur only in exceptional circumstances.

If you wish to raise a matter at a forthcoming Council Review Interview, please notify the Council in writing no less than four weeks prior to the date. The correspondence will be forwarded to the interviewers as part of the briefing allowing them time to consider the matter.

The interview provides the Council with an opportunity to review your progress and compliance with your conditions, discuss present circumstances, future options and make recommendations on whether to ease or maintain your conditions of registration.

The Council Review Interview also provides you with an opportunity to clarify any matters relating to your conditions, to relay any requests to the Health Committee and to demonstrate your continued commitment to your rehabilitation.

The length of time between interviews will vary depending on your state of health, progress and the level of compliance with conditions. Generally, interviews are held within six months of your initial attendance at the Medical Council and may be scheduled more frequently if the Council is of the view that this is necessary.

Failure to attend for the scheduled Council Review Interview without good reason will be viewed as a breach of conditions. If this occurs, you will be required to provide a written explanation for your absence which the Health Committee will consider.

Rural doctors can be disadvantaged by having to pay travel and accommodation costs as well as losing practice time when attending hearings or appointments. Some doctors wish to see a CAP as close to them as possible while others wish to be seen at a distance to their practice. The Council's Health Committee has endorsed the principle of conducting Council Review Interviews via videoconferencing for regional doctors in certain circumstances.

A number of issues must be considered in relation to videoconferencing, including access to suitable facilities, confidentiality, loss of face-to-face communication and the local cost, which is to be borne by the doctor.

Upon a satisfactory period of compliance and stability, the Panel may recommend to the Health Committee that the next Council Review Interview be conducted by videoconference. If this recommendation is endorsed, Health staff will contact you regarding the facility to be used. In this case, you will be asked to find your own videoconferencing facility and provide the Council with details, including facility name, contact person, phone numbers, email address and ISDN number. This information will be provided to ACT Teleconferencing, whom the Council uses as a bridge to facilitate videoconferencing.

Providing appropriate details are received well in advance of the scheduled Council Review Interview, the interviews will take place at the old Medical Council building.

Should the videoconference review not be successful, you will be required to attend in person.

Distribution of Interview Reports

A report is prepared by the interviewers following your attendance at the Council Review Interview. The report is then submitted to the Health Committee for consideration and endorsement. After the Health Committee has endorsed the report, you will be sent a copy. It should be noted that new or altered conditions of registration do not come into effect until the Health Committee endorses the report. Until that time you should continue to comply with the existing conditions of your registration. In some cases, the recommendations of the Interviewers will be noted but not endorsed by the Health Committee.

As a rule, copies of the reports prepared following an Impaired Registrants Panel or Council Review Interview are forwarded to your treating doctor, the CAP and any other practitioner that may be involved in your treatment. This is done in accordance with the conditions of your registration.

Reports may be forwarded to other parties if specified in your conditions of registration or requested by you.

Entry Interviews

We have implemented a series of questions (called Entry Interview) to be used about 6-12 months after you enter the Program. The aim is to encourage reflection about your expectations and goals for the Program.

These goals may include:

- learning more about your condition and the guidelines for treatment,
- learning or upgrading skills (such as stress management, anger management, communication skills, pain management, controlled drinking) and
- consideration of your lifestyle factors and work/life balance.

Exit Interviews

The Health Committee will recommend that you exit the Health Program when:

1. you have recovered and/or treatment goals have been met and
2. there has been consistent compliance with conditions of registration.

This usually comes on the recommendation of the CAP and Council Review Interviewers.

Where the Committee determines that exit from the Program is appropriate, you will be asked to attend an Exit Interview at the Council, generally six months after the previous interview. The Exit Interview provides a vehicle for reflection on your time on the Program but also plays a crucial role in the Council's efforts to improve the quality and efficiency of its processes. Constructive criticism is therefore encouraged.

You will be provided with a set of questions prior to the interview (see Appendix). These questions will be addressed at the interview.

Chronic Relapsing Illness Authorisation

At the time of exiting the Program, you may be requested to sign a Chronic Relapsing Illness Authorisation (CRIA), to authorise your treating practitioners to contact the Medical Council if you are non-compliant with treatment, terminate treatment against advice or if there is any concern about your mental state.

Progress in the Program

The Health Committee has developed a document entitled *Health Program Decision Parameters (see page 71)* which sets out the various considerations at the Program's critical decision points, which are:

- entry to the Program
- easing registration conditions
- approving employment
- dealing with breaches of conditions
- referring to the Conduct stream
- allowing return to work following suspension
- exit from the Health Program

In summary, the primary decision parameters are;

1. Nature and natural history of your illness

It is neither feasible nor desirable to adopt a rigid, one-size-fits-all approach. Much is known about the natural history of the conditions that commonly result in a practitioner being considered to be impaired, and decisions should reflect this knowledge. The Council recommends that you find out about your own health issue, including its general course and best treatment. The resource list gives some places to start.

2. Compliance with the Program

The dual aims of registration conditions are to protect the public and, where possible, to allow you to remain in the medical workforce. It is only through compliance with registration conditions that the Council can be assured that these objectives are met.

No consideration is given to easing any condition of registration unless you have been fully compliant with all conditions for a period of at least 12 months.

3. Personal support

Personal support and engagement with the community are recognised as positive predictors of recovery from all disorders, but particularly from addiction. They demonstrate insight on your part, significantly increase the chances of early identification of illness or relapse and provide an environment in which recovery or stabilisation can occur.

4. Professional support

Participants who have supportive professional relationships and work environments are much more likely to manage satisfactorily without the Council's involvement. Those that work in solo practice or are secretive about their impairment require closer supervision by the Council.

5. Insight and motivation

Your self-awareness and insight into your impairment and circumstances are a critical factor when considering your progress through the Health Program.

Insight is, to a large extent, the most important factor distinguishing illness from impairment. An ill doctor who is insightful and practises within their capability is not necessarily impaired. An ill doctor who lacks insight into the impact of their illness on their practice is clearly impaired and should enter or remain on the Health Program.

You area advised to familiarise yourself with those sections of the document that are relevant to your circumstances.

Prescribing and Self-Administration of Drugs

The Council's Policy

Schedule 8 and Schedule 4D Prescribing Authorities are available to all registered medical practitioners and do not relate in any way to their need to prescribe S8 or S4D drugs.

As a result of Impaired Registrants Panel or a Council Review Interview, it may be recommended that authority to prescribe, possess, supply or administer drugs of addiction and/or restricted drugs may be withdrawn, partially withdrawn or restored.

Both the Medical Council and Department of Health (Pharmaceutical Services) may be involved with the restriction, withdrawal and restoration of these authorities. Under the Poisons and Therapeutic Goods Act, administered by the Department of Health, the withdrawal and restoration of Schedule 8 authorities are gazetted and therefore public knowledge. In contrast, restrictions to an authority although legally enforceable are confidential between the Department, the doctor and the Medical Council.

Doctors may have their Schedule 8 Prescribing Authority withdrawn by Pharmaceutical Services (PS) on the basis of their prescribing behaviour or because of self-administration. Doctors may also elect to restrict their authority because of perceived problems with access or the demands of their patients.

Where a condition is imposed which requires that a practitioner's prescribing authority be withdrawn, **the participant must approach PS immediately and voluntarily relinquish their authority**. Participants will be required to inform PS of the circumstances that gave rise to the request for the withdrawal.

The Medical Council will seek confirmation from PS that this has occurred within a short time frame.

Doctors who are found to be self-administering S8 or S4D drugs are managed through the Health Program. The doctor generally has a condition on their registration which withdraws their authority to prescribe and administer Schedule 8 drugs.

In addition, conditions precluding prescription for self-medication and self-administration of drugs are imposed. These conditions are monitored through the Council's Urine Drug Testing protocol (see section on Urine Drug Testing – The Council's Protocol).

The Health Committee is aware that addiction problems are often life-long and that many doctors feel that it is easier for them to not have to deal with situations where addictive drugs are available.

The decision to return a Prescribing Authority therefore must recognise the balance between the clinical needs of the doctor's patients and the best interests of the doctor.

Restoration of Schedule 8 Prescribing Authority

The Council can only make a recommendation for action under the Poisons Act; the decision to act on the recommendation remains with Pharmaceutical Services of the Department of Health. Although the Medical Council will write to PS it will be necessary for you to apply to the PS directly for a variation of the drug authority.

As doctors pass through the Health Program with clear urine drug testing, there is usually an

expectation that their Schedule 8 Authority will be returned. This expectation appears to relate to:

- a belief that return of Schedule 8 Authority is their right
- a belief that return of Schedule 8 Authority is a reward for their compliance and rehabilitation
- a belief that return of Schedule 8 Authority marks the end of an unhappy chapter in their career with the restoration of 'clean' registration
- real or perceived need.

Medical Council Policy: Return of Schedule 8 Prescribing Authority

1. Unless there is a demonstrable need for the return of Schedule 8 Authority, it will be withheld, or limited to prescribing oral Schedule 8 drugs. In some circumstances, it may be appropriate to limit authority to prescribing but not supplying, possessing or administering Schedule 8 drugs. It is still possible to have full registration in this case.

2. Full or partial restoration of Schedule 8 Prescribing Authority will only be considered after the doctor has shown full compliance with the Council's drug testing program. This usually required a period of thrice weekly urine drug testing followed by 12 -18 months of random urine drug testing according to the Council's protocol. This must be in association with full compliance with all other conditions of registration.

3. Consideration will be given to returning full or partial Schedule 8 Prescribing Authority on the request of the doctor concerned. Doctors should be clear about their reasons for seeking access to Schedule 8 drugs, and be prepared to explain these reasons to the Council.

4. Doctors may be required to undertake a course approved by the Council on analgesic prescribing and demonstrate changes in prescribing behaviour prior to restoration of Schedule 8 Prescribing Authority. Even if not required, both these courses are highly recommended.

5. Doctors may be required to undertake a further 12 months of random urine drug testing according to the Council's protocol after full or partial return of their Schedule 8 Prescribing Authority.

6. Doctors who feel that they do not require, or prefer not to have their Schedule 8 Prescribing Authority returned may nevertheless be concerned about regaining unconditional registration.

A doctor can exit the Health Program with all conditions lifted while their Schedule 8 Prescribing Authority remains fully or partially withdrawn by PS. (Authority remains withdrawn unless the Medical Council specifically recommends to PS that it is restored.)

PS will seek the Medical Council's view of any subsequent application to restore Schedule 8 Prescribing Authority. The Council will base its recommendation on the doctor's history with the Council and their stated reasons for seeking restoration of their authority. On occasions, the Council may suggest that the doctor undertake a period of random urine drug testing according to the Council's protocol as a condition of restoration of their authority.

Alternative methods of analgesia

Doctors who have had their prescribing authority withdrawn or restricted should familiarise themselves with current prescribing guidelines. Narcotic analgesia may often be avoided by prescribing according to accepted guidelines for pain management. If you are in this situation, you are advised to take steps to inform yourself about current best practice in prescribing.

Coping without dangerous drugs in the workplace

Participants are advised to enter into a cooperative arrangement with a colleague, or transfer the care of affected patients, where necessary. Under no circumstance should a doctor possess, prescribe or administer Schedule 8 or Schedule 4 Appendix D drugs where their authority to do so has been withdrawn.

Schedule 4 Appendix D - Special consideration

It is the Council's policy that where Panels (or another Hearing constituted by the Council) considers it unacceptable for a practitioner to maintain prescribing rights of Schedule 4D drugs, those rights should be withdrawn through PS.

The Council does, however, recognise that the Schedule 4D category of drugs includes substances that have a variety of beneficial therapeutic uses. Should a practitioner require access to prescribe, possess or administer specific drugs included in Schedule 4D for the continuation of their practice, they should apply in writing to the Council for support to PS for the return of those particular prescription drugs.

Support will be forthcoming from the Council only in the event that the application is reasonable and unlikely to place either practitioner's or the public's health and safety at risk.

Illicit Drugs

In addition to the abuse and self-administration of prescription drugs, registrants using and abusing illicit drugs often come to the notice of the Council.

The condition prohibiting the self-administration of drugs prohibits not only the self-administration of prescription drugs, but also the self-administration of any illicit substance or street drug. These substances are listed in Schedule 1 of the Drug Misuse and Trafficking Act. The schedule includes marijuana, cocaine, amphetamines (including ecstasy), heroin and other illicit drugs.

For clarification of the substances detailed in this schedule, please contact PS. Metabolites of illicit drugs are tested for routinely as part of the Council's Urine Drug Testing Protocol. The Council views the presence of metabolites of illicit drugs in a participant's urine with grave concern and their continued presence may result in disciplinary action.

Urine Drug Testing – The Council's Protocol

1. Introduction

Urine drug testing (UDT) is a monitoring and rehabilitation tool utilised by the Medical Council of NSW (the Council). UDT may be a requirement for doctors or medical students with a history of substance abuse or about whom concerns have been identified regarding possible self administration of prescribed or illicit substances.

Participation in the Council's UDT program is a consequence of a condition imposed on a medical practitioner or student's registration as the result of a hearing, inquiry or at the time of registration by AHPRA. Overall responsibility for decisions regarding the collection and testing protocol, and progress through the program, rests with the Council.

The Council is aware that collection and testing is inconvenient, intrusive and expensive. However, it is the only quantitative means by which the Council can be satisfied that the participant is able to continue safely in active practice or training. The paramount consideration is the protection of the health and safety of the public.

Strict compliance with all of the requirements of this protocol is necessary. Breach of a condition relating to UDT can result in the Council taking disciplinary action against the participant as well as directly affecting the participant's progress through the program.

Provided this protocol has been adhered to, negative test results are currently the best available evidence that the participant is not abusing prescribed or illicit substances. Positive test results may lead to the Council convening an Impaired Registrants Panel to inquire into the matter or taking disciplinary action.

Collection and testing must be in accordance with the Australian Standard AS/NZS 4308 (Standard) and meet its chain of custody requirements. The Council has some requirements additional to those of the Australian Standard. The Council's provider of UDT services is PaLMS (Pacific Laboratory Medicine Services) Toxicology Unit.

In accordance with this Standard, drugs routinely tested for include cannabis, opiates (morphine and codeine), cocaine, amphetamine and benzodiazepines. In addition, specimens are tested for pethidine and tramadol. In certain cases, conditions may also require specimens to be tested for additional drugs (such as zolpidem (Stilnox), propofol and fentanyl).

2. Restricted substances

2.1 Prescription medications

The participant is prohibited from self-administering any drugs detailed in Schedule 1 (of the Drug Misuse and Trafficking Act), Schedule 4D or Schedule 8 drugs (of the Poisons and Therapeutic Goods Act) unless prescribed and taken at the direction of a treating practitioner. This includes any narcotic derivatives, non-prescription compound analgesics or cold medications.

The participant must notify the Council and provide written confirmation of treatment from the treating practitioner of any:

- instance of illness or procedure/s requiring the administration of medications described above and;
- administration of drugs which has occurred in an emergency situation.

The participant must notify the Council of the above within **five business days**, or as soon as practicable in an emergency.

2.2 Other restricted substances

- When consumed in a sufficient quantity, poppy seeds may result in the presence of morphine and codeine metabolites in the participant's urine. The participant must actively avoid the consumption of any food containing poppy seeds.
- Weight loss supplements and drugs should be avoided, as they may contain amphetamines or other stimulants, and may therefore elicit a positive test result.
- Complementary supplements should be consumed with caution. The ingredients should be checked to ensure that they do not contain restricted substances. If it is not possible to determine the exact ingredients contained within supplements, then these should be avoided.

3. Critical Compliance Condition

Participants may be required to undergo UDT as a result of a Critical Compliance Condition imposed on their registration by a Medical Tribunal or Professional Standards Committee.

If a participant is subject to a Critical Compliance Condition in relation to UDT and is in breach of this protocol, the discretion which the Council may exercise is limited. The Council is required by the *Health Practitioner Regulation National Law (NSW)* (the National Law) to take the following action:

- convene proceedings pursuant to section 150 of the National Law. If the Council's delegates conducting the proceedings are satisfied that the participant has contravened the Critical Compliance Condition imposed on his or her registration, the participant will have their registration suspended until a complaint concerning the matter can be dealt with by the Medical Tribunal.

and

- refer a complaint concerning the participant's breach of the Critical Compliance Condition to the Medical Tribunal. If the Medical Tribunal is satisfied that the participant has contravened the Critical Compliance Condition, the Tribunal must order the cancellation of the participant's registration.

4. Commencing UDT

Within **seven business days** of a condition requiring UDT being imposed, the participant is required to advise the Council of the proposed arrangements for specimen collection, including location and contact details.

4.1 Collection Options

There are three options available for the supervised collection of specimens:

- Supervised collection at a PaLMS collection facility (Refer to Section 11).

- Collection supervised by another Council-approved pathology provider. Other pathology collection centres are often prepared to supervise collection, and forward the specimens to PaLMS Toxicology Unit for testing. Most pathology providers will have collection kits that satisfy the Australian Standard (AS/NZS 4308).

- Collection supervised by a Council-approved supervisor (the supervisor), such as a general practitioner. The proposed supervisor should be a doctor or nurse with current Australian registration. Postage-paid collection kits will be provided by PaLMS directly to the approved supervisor on request.

Proposed alternatives to the PaLMS collection sites will only be approved once the nominated supervisor or person responsible at the alternate pathology collection centre has read and consented in writing to undertake the role of UDT supervisor in accordance with the requirements outlined in this protocol. The Council will communicate directly with the nominated supervisor.

In the event that the approved supervisor is temporarily not available, then the participant is responsible for securing an alternative supervisor or attending an alternative pathology collection provider (as outlined above). The alternative supervisor must be informed of the requirements of their role in accordance with this protocol. The participant is required to notify the Council within **five business days** of such an occurrence and advise the name and position of the alternative supervisor.

4.2 Collection Kits

Postage paid collection kits can be obtained by the supervisor by contacting PaLMS on telephone (02) 9887 5666. The participant will be invoiced for the collection kits by PaLMS. Kits will be sent directly to the supervisor. Under no circumstances may collection kits be supplied directly to the participant.

4.3 Use of a Pseudonym

Participants may request to use a pseudonym for testing, although their real identity must be known and verified by the supervisor at each collection. On request, the Council will approve the use of the pseudonym prior to the participant commencing UDT. If a pseudonym is used, then the participant must notify all treating practitioners and Council Appointed practitioners of the pseudonym which will appear on the results.

5. Specimen Collection

In accordance with the conditions on the participant's registration, specimen collection may occur on a thrice weekly or random basis.

5.1 Thrice-Weekly Collection

Specimen collection is conducted on Monday, Wednesday and Friday of each week. The participant cannot present on other days without prior approval from the Council.

5.2 Random Collection

Random collection involves the requirement to attend for specimen collection a minimum of 15 times in each consecutive six month period. The collection dates are determined by the Council.

Each weekday, between midnight & 5pm, participants are required to call the Council's Random Collection telephone number to ascertain whether or not they are required to attend for specimen collection on that day.

Random Collection telephone number: **1800 654 068**

6. Absence from testing

6.1 Planned absence from testing

Participants are required to advise the Council in writing at least **five business days** before any anticipated absence.

Participants are required to provide evidence of a reason for absence within **ten business days** (for example, copies of boarding passes, hotel receipts). Failure to provide evidence will result in the matter being considered by the Council, which may view the matter as a breach of conditions requiring further action, including possible disciplinary proceedings.

6.2 Missed tests

Participants must notify the Council immediately, in writing, of any missed test, and provide an explanation. The explanation will be reviewed by the Council, which may view the matter as a breach of conditions requiring further action, including possible disciplinary proceedings.

6.3 Public Holidays

Participants are not required to provide a specimen on a public holiday. Public holidays are defined within the *Public Holidays Act 2010 (NSW)*.

7. Results

Results must be forwarded to the Council, treating medical practitioners and Council Appointed Practitioners. Participants may also request that a copy of their results be forwarded to the participant or their medical defence organisation.

7.1 Positive tests

If a positive test result is received, the participant will be required to provide a written explanation. This explanation, together with any additional information obtained from the testing laboratory, will be considered by the Council which may view the matter as a breach of conditions requiring further action, including possible disciplinary proceedings.

7.2 Dilute specimens

The Council considers a specimen to be dilute when the urine creatinine is below 2.0 mmol/L.

Dilute urine suggests that the participant has consumed a large volume of water prior to passing the urine or that there has been adulteration of the specimen after collection. This renders the test invalid as drug metabolites may be diluted to concentrations below testing detection levels.

If a dilute specimen is received, the participant will be notified and will be expected to take all necessary action to avoid further dilute specimens, including reducing fluid intake prior to testing.

Receipt of any further dilute specimens will result in the participant being required to provide a written explanation. This explanation will be reviewed by the Council, which may view the matter as a breach of conditions requiring further action, including possible disciplinary proceedings.

7.3 Specimen adulteration or substitution

The Council may request, at any time, that a test be conducted on a specimen to determine whether the specimen has been adulterated or substituted.

If a result is received indicating specimen adulteration or substitution, the participant will be required to provide a written explanation. This explanation, together with any additional

information obtained from the testing laboratory, will be reviewed by the Council, which may view the matter as a breach of conditions requiring further action, including possible disciplinary proceedings.

8. Costs

As a condition of registration (rather than a diagnostic investigation), UDT is not funded by Medicare.

The participant is required to meet the cost of testing by paying PaLMS directly, and may also incur costs for supervised collection, at the discretion of the supervisor. Payment for supervised collection is to be directly negotiated between the supervisor and the participant undergoing testing.

Accounts must be paid in a timely manner to avoid suspension of testing by PaLMS. Suspension of testing for this reason may be referred to the Council, which may view the matter as a breach of conditions requiring further action, including possible disciplinary proceedings.

9. Supervision Requirements

Supervisors must be familiar with all aspects of this protocol, including the detailed specimen collection procedure, and must consent to undertaking the role of supervisor.

In undertaking the role of supervisor, the individual has a professional obligation to ensure the integrity of the collection procedure and the supervisory relationship. There must not be any personal, financial or other conflict of interest between the supervisor and the participant beyond the supervisory relationship. For example, a supervisor must not be a relative or employee of the participant.

Supervisors must maintain a permanent record of specimen collection. The record is to include the collection date, the nature of the specimen, the serial number on the specimen seal and the supervisor's signature. The participant must read and countersign this record following every collection. Copies of this record, or part thereof, must be made available to the Council on request.

It is also recommended that the participant maintains a diary which is signed by the supervisor on each occasion.

Supervisors must be prepared to notify the Council if they have any immediate concerns in relation to the participant's compliance with UDT collection.

Supervisors should contact the Council and speak to the Monitoring Program Manager if there are any queries or concerns on 02 9879 2200.

10. UDT Specimen Collection Procedure

This collection procedure is designed to ensure that urine is collected in a manner that complies with the requirements of the Australian Standard AS/NZS 4308 and that there is no opportunity for the specimen to be adulterated, substituted or diluted after collection.

It is essential that the specimen(s) and request form are under the control of the supervisor at all times. At no stage should the specimen be in the participant's custody.

10.1 Proof of Identity

The supervisor must establish that the person that presents for specimen collection is the participant nominated on the request form.

The supervisor must establish proof of identity prior to each collection by sighting photographic identification such as a drivers licence, passport or equivalent.

The collection should not proceed if identity is in doubt, and the supervisor is required to contact the Council immediately on 02 9879 2200.

10.2 Specimen Collection

10.2.1 The supervisor must:

- Check that the collection kit includes tamper-evident seals.
- Fill in the participant's information on the request form. A minimum of two identifiers is required. One of these must be the participant's name (or the approved pseudonym), and the second, in the ID field, must be the participant's six digit Council identification number (MPO number). The Council does not require the 12 digit Identifier provided by Australian Health Practitioner Regulation Agency.
- Securely place labels onto both containers. The same data (First Name, Surname, MPO number) must appear on both containers and match the request form.

10.2.2 The participant is required to remove all excess clothing (such as a coat or jacket) that may be used to conceal containers.

10.2.3 After washing his or her hands, the participant must remain in the presence of the supervisor without access to any water source, soap dispenser, cleaning agent or any other materials that might be used to compromise the integrity of the specimen.

10.2.4 The participant must provide the specimen under direct supervision. Direct supervision means the supervisor must witness the passing of the urine from the urethra to the container. This may include video supervision, where such facilities are available.

10.2.5 The participant should void into the container with the attached temperature-sensing strip.

10.2.6 Upon receiving the specimen, the supervisor shall determine that a minimum volume of 40 mL has been collected. In the event that insufficient urine is collected, an additional specimen must be collected.

10.2.7 The participant is not to flush the toilet or wash their hands until the specimen has been handed to the supervisor.

10.2.8 In the presence of the participant, the supervisor shall ensure that the specimen is secure at all times prior to being sealed and labelled. Both the participant and the supervisor should keep the specimen in view at all times prior to it being sealed and labelled.

10.3 Specimen Handling

10.3.1 Immediately after the specimen is collected, the supervisor should inspect the specimen to determine its colour and look for any indication of adulterants or diluents. The colour of the urine and any unusual finding should be noted on the request form. Unusual findings should also be noted in the supervisor's record.

10.3.2 If the integrity of the specimen cannot be established, or if it is suspected that the specimen may have been adulterated or substituted, then another specimen should be collected as soon as possible and both specimens forwarded to the laboratory for testing. These specimens must be labelled and documented appropriately.

10.3.3 The supervisor must measure the temperature of the specimen within four minutes of voiding and record the temperature on the request form.

10.3.4 The supervisor, in the presence of the participant, should divide the specimen into the two containers (each containing approximately equal volume). The supervisor should request that the participant observes the transfer of the specimen.

10.4 Documentation

10.4.1 The request form shall be completed by the supervisor and signed by the participant. The name and Council ID (MPO) number on the request form must appear identical to the entries on the specimen container.

10.4.2 The date and time of collection must be written on the request form and both the specimen containers by the supervisor.

10.4.3 The participant must observe the placement of the tamper-evident seals over the lids of the specimen containers. The tamper-evident seals must then be initialled by the participant.

10.4.4 The supervisor must enter the date and time of supervised collection into their record and sign the record. The participant must read and countersign the record.

10.5 Specimen dispatch

10.5.1 The supervisor should place the specimen containers in a biological hazard bag. The request form is placed in the outer pocket of the bag. This must then be packaged for transport by the supervisor. Supervisors may use the postage-paid collection kits provided by PaLMS. The package must be securely sealed to eliminate the possibility of tampering.

10.5.2 Specimens must be kept secure at all times until transport to the laboratory.

10.5.3 Transport to the laboratory, or postage of the kit, should be arranged as soon as possible. If there is a delay in transport, specimens should be refrigerated.

11. PaLMS Collection Sites

NS & CC Collection Site	Location	Address	Phone	Fax
Hornsby Ku-ring-gai Hospital	Near Main Entrance	Palmerston Road Hornsby NSW 2077	+61 2 9477 9537	+61 2 9477 9753
Manly Hospital	via West Wing	Darley Road Manly NSW 2095	+61 2 9976 9686	+61 2 9977 5373
Mona Vale Hospital	via Level 2	Coronation Street Mona Vale NSW 2103	+61 2 9998 0278	+61 2 9998 0574
North Shore Private Hospital	Ground floor, PaLMS Collection Suite	Westbourne Street St Leonards NSW 2065	+61 2 8425 3066	+61 2 9437 1477
Royal North Shore Hospital	Clinic 4, Level 3	Pacific Highway St Leonards NSW 2065	+61 2 9926 4118	+61 2 9926 4069

Date: 4 June 2013

Hair Drug Testing

1. Introduction

The Council may use hair drug testing where your employment arrangements mean you are frequently unavailable for routine testing days. The Council may also use hair drug testing to determine the extent of recent drug use for potential new Health Program participants and for current participants where there is suspicion that there has been misuse of drugs.

Hair drug testing is not an acceptable alternative to urine drug testing. Relying on hair drug testing alone results in a significant delay in the Council becoming aware of a positive result, and a positive result can not be traced to a particular date. These shortcomings are inconsistent with the Council's public protection role. Where a Health Program participant is required to undergo hair drug testing they will also be required to attend when they are available, for urine drug testing on routine collection days.

Alcohol Testing

Carbohydrate-Deficient Transferrin (CDT) testing

Introduction

A participant may be required to undertake Carbohydrate-Deficient Transferrin (CDT) testing where the presenting health problem is related to the harmful use of alcohol. The test is designed to identify excess consumption or harmful use of alcohol.

Collection

Blood samples for alcohol tests are to be drawn by a pathology provider or medical practitioner. This facility is available through most major pathology laboratories. Alternatively, a treating practitioner (such as a general practitioner) may be nominated to draw the blood sample and arrange for it to be transferred to a pathology practice for separation, the serum then sent for testing. You may be required to seek Council approval of the arrangements for drawing your blood samples.

You must ensure the pathology laboratory or medical practitioner collecting the specimen has a copy of this policy and protocol.

At no time should you be responsible for the drawing or custody of the sample.

Record of Collection

You are required to keep and maintain a log book of sample collections, each collection record signed by the person responsible for drawing the sample. Copies of this record, or part thereof, must be made available to the Medical Council on request.

The Test

The Department of Biochemistry at Concord Hospital uses the Dade Behring N Latex CDT® Particle Enhanced Nephelometric Immunoassay (PENIA) for the determination of percentage Carbohydrate-Deficient Transferrin (%CDT). The Dade Behring method uses a specific CDT monoclonal antibody to ensure there are no false positive results due to genetic variants or other non-alcoholic liver disease causing deficiencies in sialic acid content of transferrin. The reference range for %CDT using this method is 1.2 – 2.2%. This is local data determined by a large study at Concord Hospital using the Sydney metropolitan population of non-alcohol abusers (99th percentile of the "social drinking" control population). The new method shows good correlation with both the well-established Tina-quant % CDT 2nd Generation ® and HPLC assays.

A raised CDT greater than 2.2% is highly suggestive of chronic harmful alcohol abuse.

Participants are required to have their samples tested at Concord Hospital. Contact details for the Department of Biochemistry at Concord Hospital may be found in the section of the Handbook titled *Contact Details.*

Elevated %CDT

If you return a sample with an elevated %CDT, you may be required to provide a further blood

sample for determination of the level of GGT (γ-glutamyl transferase). This test may be undertaken at a pathology laboratory of your choosing, though the collection supervision must remain the same. There is no correlation between GGT and CDT, but if they are both raised the sensitivity of the diagnosis of harmful use of alcohol is increased.

If you return a sample with an elevated %CDT, you will be required to provide a written explanation for the consideration of the Council's Health Committee.

Cost

The test does not attract a Medicare rebate. You are required to meet the cost of such testing by paying the pathology laboratory directly. The collection may also incur a fee, for which you are also responsible for paying.

Pathology laboratories may collect payment before or after the service has been provided. Unpaid accounts may lead to the laboratory ceasing the service. Failure to pay will be considered the same as failing to attend for sample collection.

Sample Material

Serum is the only recommended sample material. Plasma is unsuitable. 1.5mL of serum is the minimum requirement for the test (a standard 7mL collection tube will yield approximately 3.5mL serum). Samples of frozen serum are to be forwarded to the pathologist for analysis.

Privacy

Pseudonyms may be used where you are concerned about confidentiality. The Medical Council, treating practitioner(s) and CAP(s) must be advised of the pseudonym that will appear on any of the test results.

Failure to Attend

You must attend for Alcohol Testing in accordance with your conditions of registration. A failure to attend for testing or raised %CDT levels (i.e. above the acceptable range) may be viewed as a potential breach of your conditions.

Participants required to undergo %CDT testing as a result of Critical Compliance Conditions imposed on their registration by the Medical Tribunal or Professional Standards Committees

If you are subject to a critical compliance condition in relation to %CDT testing and are in breach of this protocol, the discretion which the Council may exercise through the Health Committee is severely limited. Instead, the Council is required by the Health Practitioner Regulation National Law (NSW) to take the following action:

- Convene proceedings pursuant to Section 150 of the Health Practitioner Regulation National Law (NSW). If the delegates of the Council conducting the proceedings are satisfied that the participant has contravened the Critical Compliance Condition imposed on his or her registration, the participant will be suspended until a complaint concerning the matter can be dealt with by the Medical Tribunal.
- Refer a complaint concerning the participant's breach of the Critical Compliance Condition to the Medical Tribunal. If the Medical Tribunal is satisfied that the participant has contravened the Critical Compliance Condition, the Tribunal must order the participant's de-registration.

More Information

More information on the Dade Behring N Latex CDT ® PENIA method can be sought from Dade Behring.

CDT Testing Protocol

1. Blood is to be drawn by a collection supervisor. Most of the major pathology laboratories are able to draw the blood sample, or alternatively, a nominated practitioner may draw the sample for direction to a pathology laboratory for separation and freezing, then forwarded to the testing pathology laboratory. Prior to the commencement of CDT testing, you will be asked to nominate, for Council approval, a pathology laboratory or a medical practitioner to provide the collection service.

2. If the sample is not collected at a pathology collection centre, the sample must be directed to a pathology laboratory for separation and freezing.

3. 1.5mL of serum is the minimum requirement for the test (a standard 7mL collection tube will yield approximately 3.5mL of serum).

4. Blood should be drawn on the **first Monday of the month**, unless otherwise specified in the conditions of registration. Should this fall on a public holiday, blood should be drawn the following business day.

5. Samples of frozen serum are to be forwarded to the testing pathology laboratory for analysis.

6. CDT testing results must be forwarded by the pathologist directly to the Council, the treating practitioner(s), the Council Appointed Practitioner(s), and any other person(s) specified in the conditions of registration. You may also find it useful to receive your own copy.

7. The Council Appointed Practitioner(s) will bring any abnormal CDT testing results to the immediate attention of the Council in addition to noting the result in their next report.

8. You are to notify the Council and the Council Appointed Practitioner(s) at least 5 business days in advance of any proposed holidays or leave that will interfere with compliance. An alternative date for testing will then be arranged.

9. Raised levels of CDT without explanation or a failure to attend and provide a sample as directed without a reasonable excuse are regarded as breaches. You will be required to provide a written explanation for the consideration of the Council's Health Committee. Other processes apply in the event %CDT Testing is a Critical Compliance Condition on your registration.

10. Any breach of this protocol may result in disciplinary action.

Urine Ethyl Glucuronide (EtG) Testing Protocol

1. Introduction

Ethyl Glucuronide (EtG) is a specific and sensitive biomarker of ethanol consumption. EtG is a metabolite of alcohol that is much more slowly eliminated from the body than alcohol itself. It is the best marker currently available to monitor abstinence from alcohol and has been adopted by the Medical Council for use in circumstances where abstinence is required. Participation in the Council's EtG Testing program is a consequence of a condition imposed on your registration as the result of a hearing or inquiry.

This EtG Testing Protocol has been developed to inform doctors of the Council's expectations and to ensure maximum consistency in the day-to-day running of the Program.

Overall responsibility for decisions regarding the collection and testing protocol, and progress through the program rests with the Council through the Health Committee.

You must bear the cost of participation in the program (both collection and testing). As a medico-legal investigation, it cannot be funded by Medicare.

The Council is aware that collection and testing is inconvenient, intrusive and expensive. However, it is the only quantitative means by which the Council can be assured that you are well enough to be maintained in active practice or training.

Breach of a condition relating to EtG testing in accordance with the Council's protocol can result in the Council taking disciplinary action against you as well as directly affecting progress through the Health Program.

Negative tests are the best available evidence that you have your alcohol abuse problem under control, provided this protocol has been adhered to. The Council understands that many participants regard this as burdensome and embarrassing but it is the best system available.

2. Collection and Testing

Collection and testing must be in accordance with the Australian Standard and meet its chain of custody requirements. The Council has some requirements additional to those of the Australian Standard. The Council's provider of EtG testing services is Concord Hospital. Contact details for can be found in the section titled *Contact Details.*

2.1 Collection

There are three options in arranging supervised collection of urine samples:

a) Supervised collection at a PaLMS collection facility. A list of locations is contained in the section titled *PaLMS Collection Sites* in the Program handbook.

b) Collection supervised by a supervisor approved by the Council such as a GP.

c) Collection supervised by another pathology provider approved by the Council. Other collection centres may be prepared to supervise collection, and forward the samples to Concord Hospital for testing.

2.2 Testing

EtG testing is by way of enzyme immunoassay (EIA) conducted in the Biochemistry Department, Diagnostic Pathology Unit, Concord Hospital.

3. Detailed Requirements

Strict compliance with the following general requirements is necessary.

- Within seven days of the introduction of a condition requiring EtG testing, you are required to advise the Council of the name, address and telephone number of the nominated supervisor or pathology collection centre.

- You are required to meet the cost of testing by paying Concord Hospital directly. You may also incur costs for supervised collection, at the discretion of the supervisor.

- Urine samples are to be collected under **direct** supervision according to the protocol detailed in the section titled *Supervised Collection Guidelines.* Direct supervision means the supervisor must witness the urine passing from the urethra to the container.

- Test results must be forwarded to the Council, the treating medical practitioners and the Council Appointed practitioners. You may find it helpful to also have the results sent directly to you. You must include the treating practitioners' name and address on the request form.

- The testing cut-off value is set at 500ng/mL which the Council is advised is high enough to minimize interference from accidental or unavoidable alcohol exposure. Nevertheless, you should avoid exposure to alcohol in fermented products such as wine vinegar and soy sauce, communion wine, alcohol-based medications, antibacterial gels etc.

- Should accidental or unavoidable consumption of alcohol occur, the Council should be advised immediately and if possible, provided with supporting evidence.

3.1 Twice-weekly Testing

- Testing is conducted on Monday, and Thursday of each week. It is not acceptable to present on other days without prior approval.

  If you are required to undergo thrice weekly urine drug testing and are also required to undergo twice weekly EtG testing, it may be more practical to have EtG testing thrice weekly. This will be considered by the Council.

- The decision to vary testing from twice-weekly to random can only be made with endorsement from the Council. This decision will be made by considering the recommendations from the Council-appointed practitioner and/or the Council Review Interview Panel. The decision will also be affected by aspects of the *Health Program Decision Parameters*, which can be found in Section 6 of this Handbook.

3.2 Random Testing

- Random testing means a minimum of 15 tests in each consecutive period of six months. The timing of the collection will be determined by the Council secretariat.

- You are required to telephone the free-call 1800 number each weekday to ascertain whether they are required to attend for testing. You must attend on the specified day.

- The following number must be called Monday to Friday between midnight & 5pm.

1800 654 068

- Cessation of EtG testing can only occur with approval of the Council. This decision will be made by considering the recommendations from the Council-appointed practitioner and/or the Council Review Interview Panel. The decision will also be affected by aspects of the *Health Program Decision Parameters*, which can be found in Section 6 of this Handbook.

3.3 Absence from testing

- You are required to advise the Council, in writing, at least five business days before any anticipated absence. [Fax ((02) 9816 5307) or email (mcnsw@mcnsw.org.au) notifications are acceptable]. Only under extraordinary circumstances will permission be given to abstain from testing on certain days on a routine basis. In those situations you may be required to undertake testing on the required days when you are available.

- You are required to provide evidence of your absence (eg. copies of boarding passes, hotel receipts).

- If a testing day falls on a public holiday, you are required to provide a urine sample on the following day.

3.4 Missed tests

- If you are aware that you have missed a test, you must immediately notify the Council, in writing and provide an explanation. Explanations may be considered by the Health Committee, which may view the matter as a breach of conditions and recommend disciplinary action.

3.5 Positive tests

- If you return a positive test you will be required to provide a written explanation. That explanation, together with any additional information obtained from the testing laboratory, may be considered by the Health Committee. The Committee may view the matter as a breach of conditions and recommend disciplinary action. If you are subject to random testing, you may be required to return to twice-weekly testing.

3.6 Dilute samples

- The Council considers a sample to be dilute when the urine creatinine is below 2.0 mmol/Lt. Dilute urine suggests that you have consumed a large volume of water prior to passing the urine, or that there has been adulteration of the sample after collection. This renders the test invalid as EtG may be diluted to concentrations below testing detection levels.

- If dilute samples are received, you will be notified and will be expected to take the necessary action to avoid further dilute samples.

- Should further dilute samples be received, you will be notified in writing and required to provide a written explanation. That explanation will be placed before the Health Committee. The Committee may view the matter as a breach of conditions and recommend disciplinary action.

3.7 Sample adulteration or substitution

- The Council may, at any time, conduct any test on a urine sample as may be required to determine whether the sample has been adulterated with or substituted. If you return a result indicating adulteration or substitution you will be notified in writing and required to provide a written explanation. That explanation, together with any additional information obtained from the testing laboratory, will be placed before the Health Committee. The Committee may view the matter as a breach of conditions and recommend disciplinary action.

3.8 Participants required to undergo EtG testing as a result of Critical Compliance Conditions imposed on their registration by the Medical Tribunal or Professional Standards Committees

- If you are subject to a critical compliance condition in relation to EtG Testing and are in breach of this protocol, the discretion which the Council may exercise through the Health Committee is severely limited. The Council is required by the Health Practitioner National Law (NSW) to take the following action:
- Convene proceedings pursuant to Section 150 of the Health Practitioner Regulation National Law (NSW). If the delegates of the Council conducting the proceedings are satisfied that the participant has contravened the Critical Compliance Condition imposed on his or her registration, the participant will be suspended until a complaint concerning the matter can be dealt with by the Medical Tribunal.
- Refer a complaint concerning the participant's breach of the Critical Compliance Condition to the Medical Tribunal. If the Medical Tribunal is satisfied that the participant has contravened the Critical Compliance Condition, the Tribunal must order the participant's de-registration.

4. Advice to Supervisors

- Supervisors should be familiar with all aspects of the Medical Council's Testing Protocol, as well as the medical and behavioural consequences of the misuse of alcohol.

- Supervisors should have only a professional / doctor-patient relationship with the doctor undertaking testing.

- Supervisors should generally be available to supervise collection, and ensure that in their absence, an alternative supervisor is available and informed of the Council's requirements. The responsibility of actually securing an alternative supervisor is that of the doctor undergoing testing.

- Payment for supervised collection is to be directly negotiated between the supervisor and the doctor undergoing testing.

- The Council is appreciative of the service supervisors provide, but supervisors should be aware that failure to comply with the supervised collection guidelines may be viewed unfavourably by the Council. Supervisors are strongly advised not to cut any corners.

- Supervisors should contact the Medical Council on (02) 9879 2200 and speak to the Council's Monitoring Manager if there are any queries or concerns.

5. Supervised Collection Guidelines

Supervisors must maintain a permanent record of specimen collection. The record is to comprise of the collection date, the nature of the specimen, the serial number on the specimen seal and the supervisor's signature. Copies of this record, or part thereof, must be made available to the Council on request. It is also recommended that you maintain your own diary that you have signed by the supervisor on each occasion.

If the collection protocol is adhered to correctly, including the collection procedure and preparation for dispatch set out below, there will be no opportunity for the urine specimen to be adulterated, substituted or diluted by another person. Similarly, the urine container and the request form will be correctly completed if the protocol is adhered to. The information recorded on the request form must be identical to that recorded on the urine container.

5.1 Collection procedure

The following procedures will ensure that unadulterated specimens are obtained and correctly identified. Every effort should be made to minimise the number of persons handling specimens.

a) After washing your hands, you must remain in the presence of the supervisor and not have access to any water fountain, tap, soap dispenser, cleaning agent or any other materials that might be used to adulterate the specimen.

b) You must provide the specimen under direct supervision. Direct supervision means the supervisor must witness the passing of the urine from the urethra to the container. This may include video supervision, where such facilities are available.

c) Upon receiving the specimen, the supervisor shall determine that there is a sufficient sample to enable all required testing to be performed. A sample of at least 20mL must be collected. In the event that insufficient urine is collected, an additional sample must be provided.

d) Immediately after the specimen is collected, the supervisor should inspect the urine specimen to determine its colour and look for any indication of adulterants or diluents. Any unusual finding should be noted in the supervisor's record.

e) If the integrity of the sample cannot be established, or if it is suspected that the specimen may have been adulterated or substituted, then another specimen should be collected as soon as possible and both samples forwarded to the laboratory for testing. These specimens must be labeled and documented appropriately.

f) Both you and the supervisor should keep the specimen in view at all times prior to it being sealed and labeled.

g) The supervisor should request that you observe the transfer of the specimen and the placement of the tamper-proof seals over the bottle cap and down the sides of the bottles. You must sign the seals.

h) After the specimen has been provided and submitted to the supervisor, you will be allowed to wash your hands.

5.2 Preparation for dispatch by the Supervisor

You and the supervisor must be present during the steps (a) to (e) of the following preparation for dispatch procedures.

a) The supervisor must securely place labels on the bottle. The label should list the date of collection and a minimum of two identifiers for the participant. One of these must be the name, and the second, in the ID field, the participant's six digit NSW Medical Council identification number (MPO) (eg 123456) (The Medical Council does not require the 12 digit Identifier provided by AHPRA).

b) The supervisor must enter the date and time of supervised collection into their record and sign the record.

c) You will be asked to read and counter-sign the record.

d) The supervisor shall complete the request form. The supervisor must record your name and MPO, as well as the date and time when the sample was collected. **The name and MPO must appear identical to the entries on the urine container.**

e) The urine bottles and the request form are now ready for dispatch by the supervisor. If the specimens are not immediately prepared for transport, they must be appropriately safeguarded and refrigerated during temporary storage. Postage should occur as soon as possible.

f) It is essential that the urine specimen(s) and request form are under the control of the supervisor **at all times**. At no stage should the specimen be in your custody.

5.3 Transportation to the Laboratory

a) The supervisor must place the specimen(s) and request form in the containers provided.

b) The containers must be securely sealed to eliminate the possibility of tampering.

c) The supervisor should arrange postage to the laboratory as soon as possible.

Supervision

The Council may form the view that initially, you are not able to work safely in an unsupervised position. To remedy the situation, Panels frequently impose conditions requiring you to work only in a supervised setting. Often, such positions will need to be approved by the Medical Council in advance of accepting an offer of employment.

The following table outlines levels of supervision that may be used by a Panel (alternatively a Committee, Performance Review Panel or Tribunal) to formalise arrangements for supervised practice.

<table>
<tr><th>Level</th><th>Description</th><th>Nature of Supervision</th></tr>
<tr><td>Level 1
Direct
supervision</td><td>• Supervision of all aspects of practice as would occur with an intern or PGY2
• Supervisor/s must be at the same location as the supervised doctor at all times
• Generally only applicable in a public hospital setting</td><td rowspan="3">May include
• Observed practice
• Case presentations
• Regular, structured meetings
• Case reviews
• Record reviews
• Other activities as specified
• Reports to Medical Council as specified in the condition/s requiring supervision.</td></tr>
<tr><td>Level 2
Indirect,
on-site
supervision</td><td>• Independent practice, with review of cases / records as specified
• Supervisor/s must work at the same location and usually be available in person to advise or assist the supervised doctor
• Applicable in hospital or group practice settings</td></tr>
<tr><td>Level 3
Indirect
supervision</td><td>• Independent practice, with review of cases / records as specified
• Supervisor/s
– may work at another location, but may attend the supervised doctor's place of work at the supervisor's discretion, for the purpose of supervising, including accessing clinical records and files
– should usually be available by telephone to advise the supervised doctor
• Applicable in hospital, group or solo practice settings</td></tr>
</table>

Guidelines for Supervision

A supervisory relationship may be required for some or all of the following reasons:

- Providing peer support for the supervised practitioner.
- Monitoring your compliance with the conditions of your registration.
- Monitoring your capacity to practise medicine safely.
- Monitoring aspects of your performance.
- Providing the Medical Council with regular feedback on these matters.

The following arrangements generally apply:

1. Supervisor

1.1 Supervisors should be experienced in the relevant area of medicine, and should, if possible be Fellows of the appropriate College.

1.2 Supervisors:

- Should be registered and be in active clinical practice.
- Should not be the subject of current conduct, health or performance investigation or proceedings.
- Should not be registered with imposed conditions.
- Should not have been the subject of an adverse finding in previous disciplinary proceedings, regardless of whether his/her registration remains subject to conditions.

1.3 Supervisors must consent to undertaking the role of supervisor.

1.4. Supervisors must be made aware of the reasons for supervision, generally through provision of the decision of the Medical Tribunal, Section 150 proceedings, Professional Standards Committee, Performance Review Panel or Impaired Registrants Panel that imposed the requirement.

1.5 Supervisors must be prepared to provide feedback to the Council, in a prescribed format and at a prescribed frequency.

1.6. Supervisors must be prepared to notify the Council if they have any immediate concerns in relation to the supervised doctor's compliance with the supervision requirement, conduct, performance or health, or if the supervisory relationship ceases.

1.7. The relationship between supervisor and supervised doctor should be at a purely professional level. A supervisor must not be a relative of the supervised doctor.

1.8. It is undesirable for there to be social interaction or a treating relationship between the parties.

1.9. In view of the commitment required, a supervisor should generally not supervise more than one practitioner at a time.

1.10 The Council may withdraw a supervisor's approval where a supervisor ceases to meet the criteria set out in this policy.

2. Supervised doctor

2.1. Supervised doctors are responsible for organising their supervision, as required, and

must meet the cost of supervision at a rate agreed between the parties.

2.2 It is the responsibility of supervised doctors to cooperate fully with their supervisor to enable effective supervision to take place.

Applications for changes in practice

Practitioners are often required to seek Council approval prior to accepting an offer of employment or changing the nature or location of his/her practice.

In the event that you wish to alter the nature or place of your practice while you are subject to such a condition, you should apply to the Council in writing prior to accepting an offer of employment. The Council will attempt to expedite approval wherever possible. Where the request is urgent, authority for approval has been delegated to two Council members who will be contacted by the Council Secretariat.

Requests for approval should be in writing and contain the following information:

- name and nature of position (including a brief description of the responsibilities of the position);
- location of position;
- level of supervision;
- to whom is the position directly responsible and whether they are aware of the conditions of registration;
- hours of work.

This information can be faxed to the Medical Council on (02) 9816 5307.

If the position does not comply with the conditions on your registration, the delegates may immediately decline the application or refer the matter to the Health Committee for its consideration.

The Medical Council will not obtain positions for you if you are seeking employment. However, the Council will, at your request, discuss with current (or potential) employers or supervisors the purpose of the Council's Health Program and its implications for your practice of medicine.

The Council has found the majority of employers to be supportive and positive in their attitudes to doctors who are experiencing health problems. In the Council's experience, registration conditions as a result of health problems have seldom been an obstacle to appropriate employment.

Mentors

It may be suggested or required that you form a relationship with a mentor – or you may come to that conclusion yourself.

A mentor should be a respected practitioner with whom you are able to form a relationship to discuss the pressures of medical practice, the difficulties that you may have had, or are having, adjusting to your work or simply give you an opportunity to reflect. Some of the doctors who have exited the Health Program have offered to become mentors and can be of assistance. The relationship between a participant and a mentor is generally informal and is usually external to the work place. This allows you to talk candidly about problems you are experiencing without concern for confidentiality or the need to censor your opinions.

Mentors are often well placed to provide advice on dealing with situations that arise as a result of health problems and at the least are able to discuss the impacts of these problems upon your medical practice.

Where a condition is imposed requiring contact with a mentor, you will be asked to find a mentor that suits you and fits these guidelines and then notify the Council in writing of the mentor's details. You are encouraged to inform the mentor of your involvement with the Council's Health Program in the interest of transparency.

On receipt of the Mentor's details (and in the absence of a specific direction from a Panel), the Council will supply the mentor with details about the Health Program and guidelines for mentors.

The Council does not intervene in the 'mentoring' relationship or require reports from the mentor, other than confirmation that mentoring requirements are being adhered to.

Compliance with conditions or suspension

The purpose of registration conditions is to satisfy the Council that you are safe to practise medicine in the presence of your health problem. It is therefore critical that you are completely compliant with the conditions on your registration. In the event that you fail to comply with conditions, the Council cannot be assured that you do not present a risk to the public health and safety. Appropriate action will then be taken to restore the Council's confidence. This may include action under Section 150 of the Law.

It is important that you completely understand what is required of you by your conditions of registration. Conditions are written as explicitly as possible. If you are unsure of the obligation created by a condition, please ask for clarification from the IRP or the Council as soon as possible.

Conditions can be categorised into two basic types. They are:

1. Conditions that protect the public through a restriction in the scope or extent of your practice (eg. withdrawal of Schedule 8 prescribing rights, supervision). These conditions are available on the public register;

2. Conditions relating to improving your health (eg. maintaining a relationship with a treating psychiatrist), and conditions providing a monitoring framework (eg. attending a Council Review Interview). These conditions are referred, to but not specified on the public register.

While you remain on the Register, regardless of whether you are actively involved in the practice of medicine, you must comply with your conditions of registration. In the event that you surrender your registration, or change to the non-practising category of registration, the conditions are no longer applicable.

Breach of conditions

Where conditions of registration require a specified action or actions to be undertaken at specified times and you fail to meet those requirements without reasonable cause, or where you show evidence of using substances prohibited by your conditions, then you are said to have breached your conditions.

It is important to remember that conditions of registration have two purposes. They are intended to:

(i) satisfy the Council that you are able to practise without jeopardising the wellbeing of your patients;

(ii) require you to take responsibility for your own health.

Where a breach of conditions arises primarily in the context of your health problem (eg. relapse of an addiction), it will indicate to the Medical Council that further restrictions may be necessary to ensure safe clinical practice. However, in the event of willful, deliberate or repeated breaches, it may further indicate that you are unfit to practise medicine and that suspension and/or deregistration may be necessary.

Occasionally, participants in the Health Program will have Critical Compliance Conditions imposed on their registration by the Medical Tribunal or a Professional Standards Committee. Should the Council receive information indicating that a participant has breached a Critical Compliance Condition, the Council's response is prescribed by the Health Practitioner Regulation National Law (NSW) The Council must convene proceedings pursuant to Section 150 of the Law, following which the participant will be suspended if the evidence indicates that the condition has been contravened. The Council must also refer a complaint to the Medical Tribunal, which must de-register the participant if satisfied that a contravention of the Critical Compliance Condition in issue has occurred.

Should you have difficulty complying with any of your conditions of registration, it is very important that the Council be notified of these difficulties as soon as possible. The Council views non-compliance without good reason as a breach of conditions. Some difficulties may be easily overcome, with alternative arrangements being approved at Secretariat level; other requests may have to be put before the Health Committee for its consideration.

Please contact the Medical Council immediately should any difficulties arise.

In the event that a student fails to comply with conditions imposed by an order of the Council, the Council may, at the recommendation of an Impaired Registrants Panel, by order in writing, prohibit the student undertaking clinical studies or clinical placement.

If you have any queries regarding urine drug testing, CDT or EtG testing, supervision requirements, position approvals or compliance with conditions, please direct these to the Council's Monitoring section. You will be provided with the details of a Monitoring Officer to assist in this regard.

If you have any queries regarding details of Council Review Interviews and appointments with Council Appointed Practitioners, please direct them to the Health Section.

Review of Conditions

Section 152K of the Health Practitioner Regulation National Law (NSW) provides that:

> **152K Review of conditions [NSW]**
>
> (1) A registered health practitioner or student who agrees to conditions being imposed on the practitioner's or student's registration, or to have the registration suspended, may by written notice to the Council ask:
>
> (a) that the conditions be altered or removed; or
> (b) that the suspension be terminated or shortened.
>
> (2) On receipt of the request, the Council must require an Impaired Registrants Panel to review the matter and give a written report to the Council on the results of its review.
>
> (3) If the Panel recommends that the Council refuse to alter or remove any of the conditions, or refuse to terminate or shorten the suspension, the Council may do so.
>
> (4) The Council must give the health practitioner or student written notice of its decision.
>
> (5) The Council may specify in the notice a period in which a further request by the practitioner or student under this section is not permitted.
>
> (6) The Council may refuse a request that the conditions be altered or removed, or that the suspension be terminated or shortened, if it is made during that period.

If you wish to request a review of your conditions (or suspension) of registration, please forward a written request to the Council.

You should state that a review is being sought under s152K of the Health Practitioner Regulation National Law (NSW) and provide clear reasons for making the request. The Council will then convene an Impaired Registrants Panel to consider the matter.

In general, the Health Program is designed to enable a gradual easing of conditions contingent on continuing compliance and improvement in your health status.

The Council Review Interview (see section titled *The Council Review Interview*) provides a mechanism for reviewing your progress. The Reviewers recommend to the Council any variation or alterations of the conditions they feel appropriate. For this reason, an Impaired Registrants Panel and subsequent Review Interviews will always include a condition for regular review by the Council.

In circumstances where you seek a variation to your conditions between your scheduled Council Review Interview, a request in writing can be submitted to the Health Committee.

SECTION THREE:

EXTRACT FROM THE HEALTH PRACTITIONER REGULATION NATIONAL LAW (NSW)

Table of Contents

Part 1 - Preliminary

5 Definitions

Impairment, in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect-

(a) for a registered health practitioner or an applicant for registration in a health profession, the person's capacity to practise the profession; or

(b) for a student, the student's capacity to undertake clinical training-

(i) as part of the approved program of study in which the student is enrolled; or

(ii) arranged by an education provider

Part 8 – Health, performance and conduct

Division 2 Mandatory notifications

140 Definition of notifiable conduct

In this Division-

Notifiable conduct, in relation to a registered health practitioner, means the practitioner has-

(a) practised the practitioner's profession while intoxicated by alcohol or drugs; or

(b) engaged in sexual misconduct in connection with the practice of the practitioner's profession; or

(c) placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or

(d) placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.

141 Mandatory notifications by health practitioners

(1) This section applies to a registered health practitioner (the first health practitioner) who, in the course of practising the first health practitioner's profession, forms a reasonable belief that-

(a) another registered health practitioner (the *second health practitioner)* has behaved in a way that constitutes notifiable conduct; or

(b) A student has an impairment that, in the course of the student undertaking clinical training, may place the public at substantial risk of harm.

(2) The first health practitioner must, as soon as practicable after forming the reasonable belief, notify the National Agency of the second health practitioner's notifiable conduct or the student's impairment.

(3) A contravention of subsection (2) by a registered health practitioner does not constitute an offence but may constitute behaviour for which action may be taken under this Part.

(4) For the purposes of subsection (1), the first health practitioner does not form the reasonable belief in the course of practising the profession if-

(a) the first health practitioner-

(i) is employed or otherwise engaged by an insurer that provides

professional indemnity insurance that relates to the second health practitioner or student; and

(ii) forms the reasonable belief the second health practitioner has behaved in a way that constitutes notifiable conduct, or the student has an impairment, as a result of a disclosure made by a person to the first health practitioner in the course of a legal proceeding or the provision of legal advice arising from the insurance policy; or

(b) the first health practitioner forms the reasonable belief in the course of providing advice in relation to the notifiable conduct or impairment for the purposes of a legal proceeding or in the preparation of legal advice; or

(c) the first health practitioner is a legal practitioner and forms the reasonable belief in the course of providing legal services to the second health practitioner or student in relation to a legal proceeding or the preparation of legal advice in which the notifiable conduct or impairment is an issue; or

(d) the first health practitioner-

(i) forms the reasonable belief in the course of exercising functions as a member of a quality assurance committee, council or other body approved or authorised under an Act of a participating jurisdiction; and

(ii) is unable to disclose the information that forms the basis of the reasonable belief because a provision of that Act prohibits the disclosure of the information; or

(e) the first health practitioner knows, or reasonably believes the National Agency has been notified of the notifiable conduct or impairment that forms the basis of the reasonable belief.

Division 3 Complaints [NSW]

Subdivision 2 How complaints are to be dealt with [NSW]

145B Courses of action available to Council on complaint [NSW]

(1) The following courses of action are available to a Council in respect of a complaint

(a) the Council may make any inquiries about the complaint the Council thinks appropriate;

(b) the Council may refer the complaint to the Commission for investigation;

(c) the Council may refer the complaint to a Tribunal;

(d) the Council may refer the complaint to a Committee;

(e) for a complaint about a health practitioner or student who is registered in a health profession other than the medical or nursing and midwifery profession, the Council may deal with the complaint by inquiry at a meeting of the Council;

(f) the Council may-
(i) refer the practitioner or student for a health assessment, or
(ii) refer the matter to an Impaired Registrants Panel; or

(iii) refer the professional performance of the practitioner concerned for a performance assessment;

(g) the Council may direct the practitioner or student concerned to attend counselling;

(h) the Council may refer the complaint to the Commission for conciliation or to be dealt with under Division 9 of Part 2 of the *Health Care Complaints Act 1993*;

(i) the Council may refer the complaint to another entity, including, for example, a National Board;

(j) the Council may determine that no further action should be taken in respect of the complaint.

(2) The Commission must, on receipt of a complaint referred by a Council for investigation, investigate the complaint or cause it to be investigated.

(3) If a Council makes a referral under subsection (1)(f), the matter ceases to be a complaint for the purposes of this Law and the *Health Care Complaints Act 1993*.

(4) Subsection (3) ceases to apply in respect of any matter that a Council subsequently deals with as a complaint.

145E Council may require health practitioner or student to undergo examination [NSW]

(1) A Council may by notice given to a registered health practitioner or student against whom a complaint has been made, direct the practitioner or student to undergo an examination by a specified registered health practitioner at a specified reasonable time and place.

(2) A registered health practitioner or student must not be directed to undergo an examination under subsection (1) unless it is reasonable to require the examination, given the nature of the complaint against the practitioner or student.

(3) The fee charged by the specified registered health practitioner for the examination is at the expense of the Council.

145F Result of the failure to attend counselling or examination [NSW]

A failure by a registered health practitioner or student, without reasonable excuse, to comply with a direction under section 145B to undergo an examination is, for the purposes of this Law and any inquiry or appeal under this Law, evidence that the practitioner or student-

(a) for a registered health practitioner, does not have sufficient physical and mental capacity to practise the health profession in which the practitioner is registered; or

(b) for a student, does not have sufficient physical and mental capacity to undertake clinical training in the health profession in which the student is registered.

Division 4 Impairment [NSW]

152 Persons may notify Council of impairment matters concerning practitioners or students [NSW]

A person may notify the Council of a matter the person thinks indicates a registered health practitioner or student has or may have an impairment.

152A Commission may refer impairment matters to Council [NSW]

(1) If the Commission becomes aware of a matter the Commission considers indicates a registered health practitioner or student has or may have an impairment, the Commission may refer the matter to the Council for the health profession in which the practitioner or student is registered.

(2) This section does not affect the functions of a Council in relation to a complaint made to the Commission or a matter referred to the Commission for investigation.

152B Council may require registered health practitioner to undergo examination [NSW]

(1) If a Council reasonable believes a registered health practitioner has or may have an impairment, the Council may, by written notice given to the practitioner, require the practitioner to undergo an examination by another registered health practitioner.

(2) The notice must state-
(a) that the registered health practitioner is required to undergo an examination by a registered health practitioner; and
(b) the name of the registered health practitioner who is to conduct the examination; and
(c) if the examination is to be conducted at a particular time and place, the time and the place at which the examination is to be conducted; and
(d) that if the registered health practitioner fails to undergo the examination as required by the notice, the failure may constitute evidence that the practitioner does not have the sufficient physical and mental capacity to practise the practitioner's health profession.

(3) The fee charged by the registered health practitioner for conducting the examination must be at the expense of the Council.

(4) If the registered health practitioner fails, without reasonable excuse, to comply with the notice, the failure is evidence the practitioner does not have sufficient physical and mental capacity to practise the practitioner's health profession.

152C Council may require student to undergo examination [NSW]

(1) If a Council reasonable believes a student has or may have an impairment, the Council may, by written notice given to the student, require the student to undergo an examination by a registered health practitioner.

(2) The notice must state-
(a) that the student is required to undergo an examination by a registered health practitioner; and
(b) the name of the health practitioner who is to conduct the examination; and

(c) if the examination is to be conducted at a particular time and place, the time and the place at which the examination is to be conducted; and
(d) that if the student fails to undergo the examination as required by the notice, the Council may suspend the student's registration until the student undergoes the examination.

(3) The fee charged by the registered health practitioner for conducting the examination must be at the expense of the Council.

(4) If the student fails, without reasonable excuse, to comply with the notice, the Council may suspend the student's registration until the student undergoes the examination.

(5) The suspension takes effect when written notice of it is served on the educational provider with which the student is undertaking the approved program of study or that arranged the clinical training for the student.

152D Referral of impairment matters concerning practitioners or students [NSW]

(1) A Council may decide to refer a matter to an Impaired Registrants Panel if the Council considers the matter indicates a registered health practitioner or student has or may have an impairment. This is not limited to matters that are the subject of a complaint to the Council.

(2) Subsection (1) applies whether or not the matter is the subject of a complaint to the Council.

(3) If the Council is aware a complaint has been made to the Commission about a registered health practitioner or student who is the subject of a referral to an Impaired Registrants Panel, the Council must notify the Commission of the referral.

152E Panel must inquire into matters referred to it [NSW]

(1) An Impaired Registrants Panel must inquire into any matter referred to it and may obtain reports and other information concerning the matter from any source it considers appropriate.

(2) The Panel may ask the registered health practitioner or student who is the subject of the referral, to attend before the Panel for the purpose of enabling the Panel to obtain information on the matter and make an assessment.

152F Panel not to take action while Commission investigating [NSW]

An Impaired Registrants Panel is not to investigate or take any other action in relation to a matter if the Panel is aware the matter is the subject of an investigation by the Commission, while the investigation is being conducted.

152G Council to give notice of proposed inquiry [NSW]

(1) A Council must give notice to a registered health practitioner or student of any proposed inquiry by an Impaired Registrants Panel concerning the practitioner or student.

(2) The notice must include sufficient details of the matters to which the inquiry is to relate.

152H Practitioner or student entitled to make representations [NSW]

(1) A registered health practitioner or student who is the subject of an inquiry by an Impaired Registrants Panel is entitled to make oral or written representations to the Panel about the matters being or to be the subject of the inquiry.

(2) This section does not prevent the Panel from conducting an inquiry in the absence of the registered health practitioner or student to whom it relates, if the practitioner or student has been given notice of the inquiry.

152I Assessment, report and recommendations by Panel [NSW]

(1) An Impaired Registrants Panel must make an assessment about a matter referred to it, based on the results of its inquiry into the matter.

(2) On the basis of its assessment, the Panel may do any one or more of the following-

(a) counsel the practitioner or student concerned or recommend the practitioner or student undertake specified counselling;
(b) recommend the practitioner or student concerned to agree to conditions being placed on the practitioner's or student's registration or to having the practitioner's or student's registration suspended for a specified period;
(c) make recommendations to the Council that referred the matter to it as to action that the Panel considers should be taken in relation to the matter.

(3) The must give a written report about the matter to the Council that referred the matter to it.

(4) The report must detail-
(a) the results of the Panel's inquiries and assessment in respect of the referral; and
(b) any action taken by the Panel in relation to it.

152J Voluntary suspension or conditions on registration [NSW]

A Council may impose conditions on a registered health practitioner's or student's registration, or suspend the practitioner's or student's registration, if:
(a) An Impaired Registrants Panel has recommended the Council do so; and
(b) the Council is satisfied that the practitioner has voluntarily agreed to the conditions.

152K Review of conditions [NSW]

(1) A registered health practitioner or student who agrees to conditions being imposed on the practitioner's or student's registration, or to have the registration suspended, may by written notice to the Council ask-
(a) that the conditions be altered or removed; or
(b) that the suspension be terminated or shortened.

(2) On receipt of the request, the Council must require an Impaired Registrants Panel to review the matter and give a written report to the Council on the results of its review.

(3) If the Panel recommends that the Council refuse to alter or remove any of the conditions, or refuse to terminate or shorten the suspension, the Council may do so.

(4) The Council must give the health practitioner or student written notice of its decision.

(5) The Council may specify in the notice a period in which a further request by the practitioner or student under this section is not permitted.

(6) The Council may refuse a request that the conditions be altered or removed, or that the suspension be terminated or shortened, if it is made during that period.

152L Some matters to be dealt with as complaints [NSW]

(1) If an Impaired Registrants Panel recommends that a registered health practitioner or student agree to conditions being imposed on the practitioner's or student's registration or to having the practitioner's or student's registration suspended and the practitioner or student fails to agree with the recommendation, the Council must deal with the matter that was the subject of the referral to the Panel as a complaint against the practitioner or student.

(2) If the Panel recommends that a matter referred to it be dealt with as a complaint, the Council is to deal with the matter as a complaint against the practitioner concerned.

(3) In any other case that the Council thinks it appropriate to do so, the Council must deal with the matter as a complaint against the health practitioner or student concerned.

152M Prohibition or conditions on student [NSW]

(1) An Impaired Registrants Panel that investigates a matter about a student may recommend to the Council that referred the matter to the Panel that it is in the public interest for the Council-
(a) to suspend the student's registration; or
(b) to impose specified conditions on the student's registration.

(2) If the Council is satisfied it is in the public interest to do so, the Council may by written order take the action recommended by the Panel.

(3) The order takes effect when notice of it is served on the education provider with which the student is undertaking the approved program of study or who arranged clinical training for the student.

(4) An order remains in force for the period, not more than 2 years, specified in the order unless it is sooner revoked by the Council.

(5) The Council may issue further orders in respect of a student but only on the recommendation of an Impaired Registrants Panel.

Division 6 Appeals to Tribunal [NSW]

Subdivision 2 Appeal against actions by Council [NSW]

159 Right of appeal [NSW]

(1) A person may appeal to the Tribunal for a health profession-

(a) against a suspension by the Council for the health profession under Division 3 or a refusal to end a suspension; or
(b) against conditions imposed by the Council for the health profession on the person's registration under Division 3 or 4 of the alteration of the conditions by the Council; or
(c) against a refusal by the Council for the health profession to alter or remove conditions imposed by the Council under Division 3 in accordance with a request made by the person under section 150I; or
(d) against a decision by the Council for the health profession to give a direction or make an order in relation to the person under section 148E; or
(e) against a refusal by the Council for the health profession to alter or remove conditions imposed on the person's registration, or to end a suspension, imposed under Division 4 in accordance with a request made by the person under section 152K.

(2) An appeal may not be made in respect of a request by a person that is rejected by a Council because it was made during a period in which the request was not permitted under section 150I or 152K.

159A Appeal by student against order [NSW]

(1) A student may appeal to the Tribunal for a health profession against a decision of the Council for the health profession to issue an order-
(a) suspending the student's registration; or
(b) imposing conditions on the student's registration.

(2) The appeal must be lodged with the Executive Officer who must refer it to the Tribunal.
(3) The appeal must be within 28 days, or the longer period as the Executive Officer may allow in a particular case, after notice of the Council's decision is given to the student.
(4) On an appeal, the Tribunal may by order terminate, vary or confirm the order, as it thinks proper.

159C Tribunal's powers on appeal [NSW]

(1) On an appeal, a Tribunal may by order terminate, vary or confirm a period of suspension or revoke, very or confirm the conditions, as it thinks proper.

(2) A Tribunal's order must not cause a suspension or conditions imposed by a Council to have effect beyond the day on which a related complaint about the person is disposed of.

Subdivision 4 Miscellaneous [NSW]

161 When appeal must be made [NSW]

An appeal under this Division or Division 13, other than an appeal on a point of law, must be made-
(a) within 28 days after the day the person making the appeal was given notice of the decision being appealed against; or
(b) within the longer period allowed by the Executive Officer.

161A Lodgement of appeal [NSW]

The appeal must be lodged with the Executive Officer who must refer it to the Tribunal.

161B Appeal does not stay decision [NSW]

An appeal under this Division does not operate to stay the effect of the decision being appealed against unless the Chairperson or a Deputy Chairperson of the Tribunal otherwise orders

Division 8 Reviews [NSW]

163 Appropriate review body [NSW]

(1) For the purposes of this Division, the ***appropriate review body*** is-
(a) if the order being reviewed provides that it may be reviewed by a Council, the Council; or
(b) if the Chairperson of the Tribunal decides, on application by the person the subject of the review, that a National Board is the appropriate review body, the National Board; or
(c) otherwise, the Tribunal.

(2) An application for review by a person must be lodged with the Executive Officer of the Council for the health profession in which the person is or was registered.

163A Right of review [NSW]

(1) A person may apply to the appropriate review body for a review of-

(a) a prohibition order made in relation to the person; or
(b) a relevant order made in relation to the person.

(2) A person may also apply to the appropriate review body for a review of an order made under this Division.

(3) An application for review of an order may not be made-
(a) while the terms of the order provide that an application for review may not be made; or
(b) while an appeal to a Tribunal or the Supreme Court in respect of the same matter is pending.

163B Powers on review [NSW]

(1) The appropriate review body must conduct an inquiry into an application for review and may then do any of the following-

(a) dismiss the application;
(b) make an order ending or shortening the period of the suspension concerned;
(c) make a reinstatement order;
(d) make an order altering or removing the conditions to which the person's registration is subject, including by imposing new conditions.

(2) If the appropriate review body makes an order altering a critical compliance condition, or removing a critical compliance condition and imposing a new condition, the altered condition or new condition is a ***critical compliance condition*** unless the body orders otherwise.

(3) A ***reinstatement order*** is an order that the person be registered subject to the same conditions and limitations (if any) to which the person's registration was subject immediately before the person ceased to be registered.

(4) The appropriate review body may also impose conditions on the person's registration or alter the conditions to which the person's registration is to be subject under the reinstatement order.

(5) The order on a review under this section may also provide that the order is not to be reviewed under this Division until after a specified time.

163C Inquiry into review application [NSW]

(1) A review under this Division is a review to determine the appropriateness, at the time of the review, of the order concerned.

(2) The review is not to review the decision to make the order, or any findings made in connection with the making of that decision.

(3) In addition to any other matter the review may take into account, the review must take into account any complaint made or notified to a Council or a National Board, or a former Board under a repealed Act, about the person, whether the complaint was made or notified before or after the making of the order that is the subject of the review and whether or not the complaint was referred under Subdivision 2 of Division 3 or any other action was taken on the complaint.

Division 13 – Impaired Registrants Panels [NSW]

173 Establishment of Impaired Registrants Panels [NSW]

(1) There are to be Impaired Registrants Panels established for the purposes of this Law.

(2) A Panel has and may exercise the jurisdiction and functions conferred or imposed on it by or under this Law or any other Act.

173A Council to establish Panel when required [NSW]

(1) If a Council decides to refer a matter to an Impaired Registrants Panel, it must appoint 2 or 3 persons to sit as the Panel for the purpose of dealing with the matter.

(2) A Panel must include-
(a) at least one person who is registered in the same health profession as the

registered health practitioner or student who is the subject of the Panel's proceedings; and

(b) at least one medical practitioner.

(3) If the health profession has divisions, the member appointed under subsection (2)(a) must be registered in the same division of the health profession as the registered health practitioner or student the subject of the complaint.

(4) A person may be appointed to sit on a Panel whether or not the person is a member of the Council, but not if the person has previously dealt with the particular matter before the Panel in the person's capacity as a member of the Council.

(5) A member of a Panel, while sitting on the Panel, is entitled to be paid at the rate decided by the Minister in consultation with the Council.

173B Decisions of Panel [NSW]

(1) If an Impaired Registrants Panel consists of 2 members-
(a) a decision supported by both members of the Panel is the decision of the Panel; and
(b) if the members of the Panel disagree as to any matter dealt with by the Panel, the Panel's report to the Council must include details of the disagreement and the reasons for it.

(2) If a Panel consists of 3 members-
(a) a decision supported by the majority of the members is the decision of the Panel; and
(b) the Panel's report to the Council must include any minority decision.

Division 14B Miscellaneous [NSW]

176B National Board to give notice to registered health practitioner's employer

(1) This section applies if-
(a) a National Board-
(i) decides to take health, conduct or performance action against a registered health practitioner; or
(ii) receives notice from an adjudication body that the adjudication body has decided to take health, conduct or performance action against a registered health practitioner; or
(iii) receives notice from a co-regulatory authority that an adjudication body in the co-regulatory jurisdiction has decided to take health, conduct or performance action against a registered health practitioner; and
(b) the National Board has been advised by the registered health practitioner that the practitioner is employed by another entity.

(2) The National Board must, as soon as practicable after making the decision or receiving the notice, give written notice of the decision to take health, conduct or performance action against the registered health practitioner to the practitioner's employer.

176F Confidentiality of protected reports

(1) A person must not, directly or indirectly-
  (a) disclose a protected report to another person that the person has obtained in the exercise of the person's functions under this Law; or
  (b) make a record of, or disclose to another person, information contained in a protected report that the person has obtained in the exercise of the person's functions under this Law.

  Maximum penalty: 50 penalty units.

(2) Subsection (1) does not apply to the disclosure by a person of a protected report or information contained in a protected report-
  (a) for the purpose of exercising functions under this Law; or
  (b) to the Commission.

(3) A protected report may not be admitted or used in civil proceedings before a court other than with the consent of-
  (a) the person giving the report; and
  (b) the person the subject of the report.

(4) A person may not be compelled to produce a protected report, or to give evidence in relation to the report or its contents, in civil proceedings before a court.

SECTION FOUR:

USEFUL INFORMATION

Recommended Reading

The following list of books and websites covers a variety of mental health issues.

Stress management and anxiety

1. Lampe L (2004) Take Control of Worry. Sydney: Simon & Schuster
2. Wilson P (1995) Instant Calm. Ringwood: Penguin
3. McKay M, Davis M, Fanning P (1981) Thoughts and Feeling: The Art of Cognitive Stress Intervention. Oakland: New Harbinger
4. Brantley J, Millstine W (2005) Five good minutes – 100 morning practices to help you stay calm and focussed all day long. Oakland: New Harbinger
5. Merlevede P, Bridoux D, Vandamme R (2001) Seven Steps to Emotional Intelligence. Carmarthen UK: Crown House

Enhancing mood

6. Holmes R, Holmes J (1993) The Good Mood Guide. London: Dent
7. Church M (2005) High Life: Balance Your Body Chemistry and Feel Uplifted 24/7. ABC Books
8. Tanner S, Ball J (1989) Beating the Blues: A Self-help Approach to Overcoming Depression. Sydney: Doubleday
9. Yapko Michael (1997) Breaking the Patterns of Depression. Doubleday

Books and websites about depression

10. Parker G (2004) Dealing with Depression A common sense guide to mood disorders. Sydney: Allen & Unwin
11. Wigney T, Eyers K, Parker G (Eds) (2007) Journeys with the black dog. Sydney: Allen & Unwin
12. Varma V (Ed)(1997) Managing Manic Depressive Disorders. London, UK: Jessica Kingsley.
13. Wilhelm K (2009) Making sense of the complex depressed patient I. Medical illness, including effects of drugs and alcohol. Medicine Today, 10, 4, 36-46; 2. Temperament and personality factors. Medicine Today, 10, 5, 32-44; 3. Melancholic and bipolar depression. Medicine Today 10, 6, 22-34.
14. Men and depression. Australian Family Physician, 38, 3, 102-5
15. Comprehensive information about diagnosis and treatment options for depression and bipolar disorders available at **Black Dog Institute** http://www.blackdoginstitute.org.au and **beyondblue** website http://beyondblue.org.au.

Re-evaluating life after recovery from depression

16. Fanning P (1988) Visualisation for change. Oakland: New Harbinger
17. Stanton HE (1986) The Plus factor. Victoria: Fontana Books
18. Colliver A (1992) Choosing To Love. Sydney: Random House.
19. O'Hanlon Bill (1999) Do One Thing Different: Ten Simple Ways to Change Your Life. Quill.
20. Free program to help 'tone up' your mind to fend off depression available at http://www.moodgym.anu.edu.au/

Substance Abuse

21. DiClemente CC (2003) Addiction and Change – how addictions develop and addicted people recover. NY:Guilford
22. Jarvis TJ, Tebbutt J, Mattick RP (1995) Treatment approaches for alcohol and drug dependence – an introductory guide. West Sussex, UK: John Wiley & Sons.

Challenging Thought Behaviours

23. McKay M, Fanning P (1991) Prisoners of Belief – exposing and changing beliefs that control your life. Oakland: New Harbinger.
24. Edelman S (2002) Change your thinking. Sydney: Harper Collins

Self esteem, positive psychology

25. Deroo C, Deroo C (2006) What's right with me? – positive ways to celebrate your strengths, build self-esteem and reach your potential. Oakland: New Harbinger
26. McKay M, Fanning P (1987) Self Esteem. A Proven Program of Cognitive Techniques for Assessing, Improving, and Maintaining Your Self-Esteem. Oakland: New Harbinger
27. Seligman M (1991) Learned Optimism. Sydney: Random House. Martin Seligman's site on positive psychology at http://www.authentichappiness.sas.upenn.edu. Information about positive psychology from Australian viewpoint. www.happinessinstitute.com.au

Mindfulness

28. McQuaid JR, Carmona PE (2004) Peaceful Mind – using mindfulness and cognitive behavioural psychology to overcome depression. Oakland, Ca: New Harbinger.
29. Brantley J (2003) Calming your anxious mind – how mindfulness and compassion can free you from anxiety, far, and panic. Oakland, Ca: New Harbinger.
30. Brantley J, Millstine W (2007) Five good minutes at work – 100 mindful practices to help you relieve stress and bring your best to work. Oakland, Ca: New Harbinger.
31. Williams M, Teasdale J, Segal Z, Kabat-Zinn J (2007) The Mindful Way Through Depression – freeing yourself from chronic unhappiness. New York: Guilford Press.
32. Kundtz D (2000) Quiet Mind – one minute retreats from a busy world. Conari Press, San Francisco, CA.
33. Garth M (1994) The Inner Garden. Meditations for Life from 9 to 90. Melbourne: Collins Dove

Coping with Pain

34. Nicholas M, Molloy A, Tonkin L, Beeston L (2000) Manage your Pain. Sydney: ABC Books.

Bereavement

35. Kumar SM (2005) Grieving mindfully – a compassionate and spiritual guide to coping with loss. Oakland, CA: New Harbinger

Expressive Writing and Health

36. Schaefer EM (2008) Writing through the darkness – easing your depression with paper and pen. Berkeley, CA: Celestial Arts, Ten Speed Press
37. DeSalvo L (1999) Writing as a way of healing: how telling our stories transforms our lives. Boston, MA: Beacon

38. Pennebaker JW (2004) Writing to heal – a guided journal for recovering from trauma and emotional upheaval. Oakland, Ca: New Harbinger
39. Adams K (1990) Journal to the self – twenty-two paths to personal growth. New York: Warner

Eating disorders

40. Fairburn C, Overcoming Binge Eating. Guildford Press
41. Kausman R, If Not Dieting …then What? Allen and Unwin
42. Treasure J, Schmidt U. Getting Better Bite by Bite – Survival Kit for Sufferers of Anorexia Nervosa. Taylor and Frances
43. Useful websites are www.smart-eating.com; www.eatingdisorderexpert.co.uk and www.bulimiahelp.org

Healthy Aging

44. Kersley SE (2009) Get ready for retirement–how to have a life after work. Lexington, Kentucky: www.lulu.com
45. Lee I, Jones J (2008) In Full Bloom – a brain education guide for successful aging. Sedona, AZ: Best Life Media.
46. Gediman CL, Crinella FM (2005) Brain fit – 10 minutes a day for a sharper mind and memory. Nashville, Ten: Thomas Nelson.
47. Kersley SE (2010) Life after medicine – for doctors who want a trouble-free transition. Oxon, UK: Radcliffe Publishing
48. Leviton R (1995) Brain Builders! A lifelong guide to sharper thinking, better memory, and an age-proof mind. New York: Reward Books.
49. Lee I (2005) Human Technology – a toolkit for authentic living. Sedona, AZ: Healing Society

Career-related

50. Houghton A (2005) Know Yourself – the individual's guide to career development in healthcare. Oxon, UK: Radcliffe
51. Houghton A (2005) Finding Square Holes – discover who you really are and find the perfect career. Carmarthen, Wales: Crown House
52. Rothschild B (2006) Help for the Helper – self-care strategies for managing burnout and stress. New York: WW Norton & Co
53. Laster L (1996) Life after Medical School – 32 doctors describe how they shaped their medical careers. New York: WW Norton & Co
54. Kersley S E (2010) Life After Medicine – for doctors who want a trouble-free transition. Radcliffe Publishing, Oxon, UK.
55. Gatchel RJ (2005) Clinical Essentials of Pain Management. Washington, DC: American Psychological Association.

General interest

56. Leeds R (2008) One Year to an Organized Life – from your closets to your finances. Da Capo Press, Philadelphia, PA.
57. Biddulph S (1995) Manhood: An Action Plan for Changing Men's Lives. Sydney: Finch.
58. Cusick A (1995) Choices. Sydney: Simon & Schuster.
59. Blackburn R (2007) Green is Good – Smart Ways to Live Well and Help the Planet. Harper Collins Publishers, Sydney, Australia.

The **Royal Australian and New Zealand College of Psychiatry has Clinical Practice Guidelines available at http://www.ranzcp.org/resources/clinical-practice-guidelines.html available for Anorexia** Nervosa, Bipolar Disorder, Deliberate Self Harm, Depression, Panic Disorder and Agoraphobia and Schizophrenia, in clinician and consumer versions.

There is also a statement on treatment guidelines for ADHD in adults **http://www.ranzcp.org/images/stories/ranzcp-attachments/Resources/College_Statements/Practice_Guidelines/pg6.pdf**

Contact Details

Concord Hospital – CDT Testing

Address: Biochemistry Department
Concord Hospital
CONCORD NSW 2137

Telephone: (02) 9767 6663

Doctors Health Advisory Service

The Doctors Health Advisory Service is a confidential 24 hour referral and advice and support service for medical practitioners experiencing problems with their health.

HELPLINE: (02) 9437 6552

Doctors in Recovery Group – The Northside Clinic

The Doctors in Recovery Group meets at 8pm every Monday night (excepting public holidays). It convenes in the day patient centre.

Address: Northside Clinic, 2 Greenwich Road
GREENWICH NSW 2065

Telephone: (02) 9433 3555
Facsimile: (02) 9433 3599

Alcoholics Anonymous

Website: http://www.aa.org.au/

Address: National Office of AA
48 Firth Street
ARNCLIFFE NSW 2205

Telephone: (02) 9599 8866
Facsimile: (02) 9599 8844

Medical Benevolent Association

The Medical Benevolent Association (MBA) is a not for profit organisation providing emotional and financial support to Medical Practitioner's and their families in time of distress. The MBA employs a trained social worker to act as an adviser to Medical Practitioners.

Mailing Address: The Medical Benevolent Association
Level 6

69 Christie Street
ST LEONARD NSW 2065

Telephone: (02) 9987 0504
Facsimile: (02) 9987 2970

PaLMS Toxicology

PaLMS Toxicology is the nominated supplier of pathology services to the Council - in particular, Urine Drug Testing. The principal contact for participants is the Chief Scientist.

Telephone: (02) 9887 5666

Pharmaceutical Services – Department of Health

Responsible for all drug prescribing – including Schedule 8 & Schedule 4D prescribing authorities.

Street Address: Grounds of Gladesville Hospital
Off Victoria Road
GLADESVILLE NSW 2111

Mailing Address: Chief Pharmacist
Pharmaceutical Services Branch
Department of Health
PO Box 103
GLADESVILLE NSW 1675

Telephone: (02) 9879 3214
Facsimile: (02) 9859 5165

Pharmaceutical Services (December 2010), *Drugs of Addiction (Schedule 8)* [online], available from
http://www.health.nsw.gov.au/resources/publichealth/pharmaceutical/drugsofaddiction_schedule8_pdf.asp

Pharmaceutical Services (December 2010), *Prescribed Restricted Substances (Schedule 4 Appendix D drugs)* [online], available from
http://www.health.nsw.gov.au/resources/publichealth/pharmaceutical/prescribed_restricted_substances.asp

Pharmacotherapy Credentialling Sub-Committee (Methadone etc)

Responsible for reviewing applications for authority to be a pharmacotherapy provider.

Mailing Address: Pharmacotherapy Credentialling Sub-Committee
C/ Drug Programs Bureau
NSW Department of Health
Locked Mail Bag 961
NORTH SYDNEY NSW 2060

Telephone: (02) 9391 9000
Facsimile: (02) 9391 9101

Medical Board of Australia

Responsible for registration of medical practitioners in Australia.

Mailing Address: PO Box 16085
Collins Street West
MELBOURNE VIC 8007

Telephone: (AHPRA helpline) 1300 088 590

Good Medical Practice: A Code of Conduct for Doctors in Australia

To access the Code of Conduct, please see the Medical Board of Australia website www.medicalboard.gov.au

SECTION FIVE:

LOCATING THE COUNCIL

Medical Council of New South Wales - Contact Details

Contacts:	***Health Program Manager*** – general inquiries about your participation in the Health Program. ***Monitoring Manager*** – inquiries regarding compliance with conditions of registration.
Street address:	Building 45 Gladesville Hospital Grounds Off Punt Road Gladesville NSW
Postal address:	PO Box 104 Gladesville NSW 1675
DX:	22808 Gladesville
Telephone: **UDT Hotline** **Facsimile:** **E-mail:**	(02) 9879 2200 1800 654 068 (02) 9816 5307 mcnsw@mcnsw.org.au
Office hours:	9.00am to 5.00pm Monday to Friday (excluding Public Holidays)

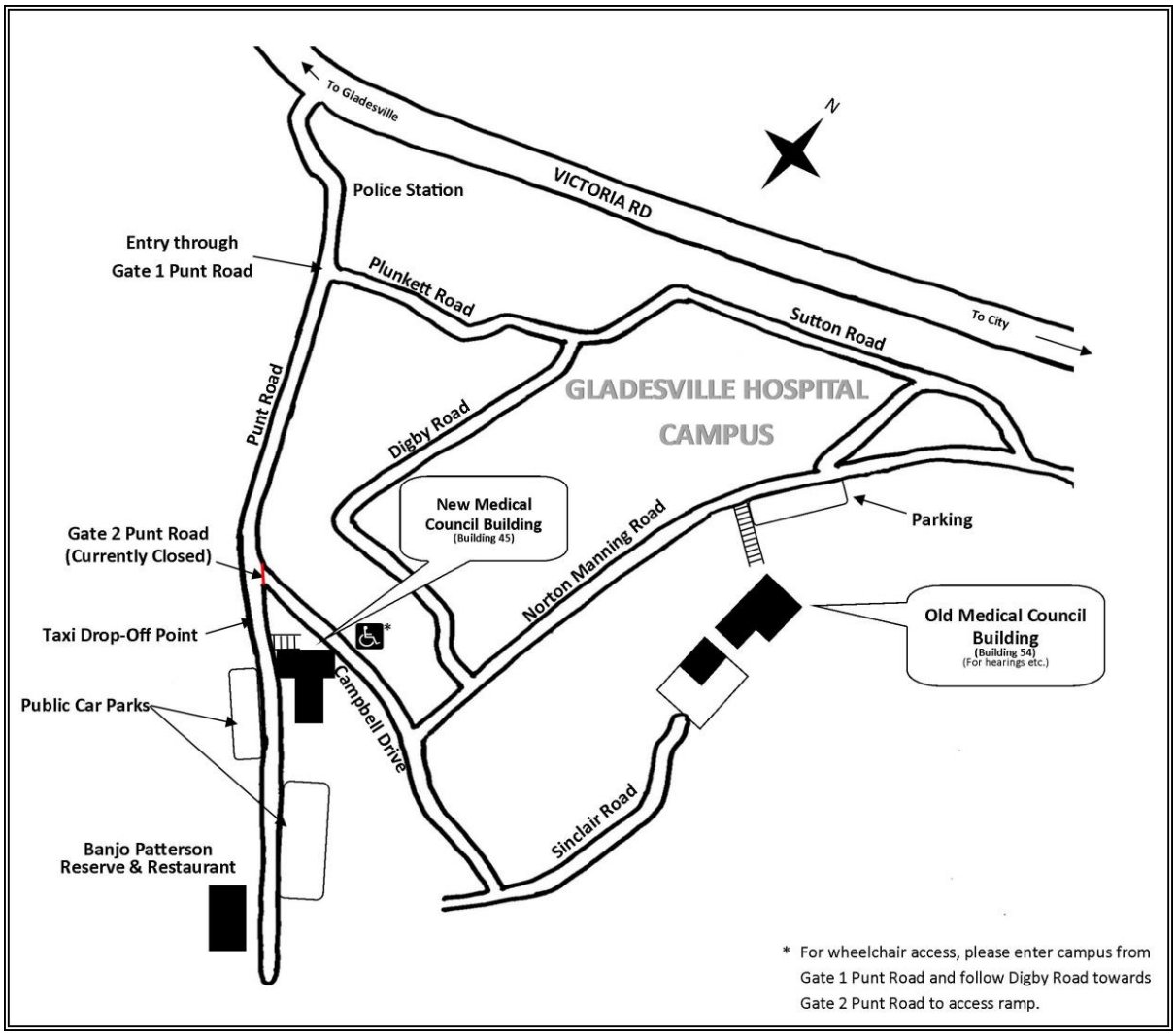
Map of Gladesville Hospital

The venue of each hearing is detailed in the correspondence forwarded prior to the hearing.

Public Transport

There are buses operating from the city to the Gladesville Hospital Grounds - via Victoria Road.

Bus routes 500, 507, 510, 515, 518, 520 operate from Circular Quay via Town Hall.
Bus route 501 operates from Town Hall via Central Station.



SECTION SIX:

APPENDIX

Diagnostic pathways and decision parameters

BACKGROUND

The Medical Council of NSW adopts a non-disciplinary approach to impaired doctors and is increasingly aware of the need both to facilitate and support appropriate treatment and to provide a number of pathways for impaired registrants. These pathways are determined by the nature of the impairment, its duration, other comorbidities and complications and the context within which the registrant works.

There are a number of critical decision points that the Council faces in relation to individual registrants, notably:

1. entry to the Health Program
2. easing registration conditions
3. approving employment
4. dealing with breaches of conditions
5. referring to the Conduct stream
6. allowing return to work following suspension
7. exit from the Impaired Registrants Program
8. applications by suspended or deregistered impaired practitioners to the Medical Tribunal, requesting restoration to the Medical Register

While the Council is not directly involved in the treatment of impaired registrants, it expects that you will seek and comply with appropriate treatment and develop a treatment plan in conjunction with your treating practitioner. In developing a treatment plan, you should consider the parameters outlined in this paper.

The parameters also assist the Health Committee, Council and Medical Tribunal in their dealings with impaired registrants.

This paper sets out a framework for dealing with impaired registrants throughout the duration of their impairment and defines parameters to be considered at each critical decision point, in order to achieve satisfactory and consistent decisions.

These decision parameters are based on the Council's experience conducting the Impaired Registrants Program as well as advice from specialist consultants and qualitative and quantitative research conducted within and external to the program.

DECISION PARAMETERS

1. NATURE OF IMPAIRMENT

This section describes the common impairments that are sufficiently serious to affect doctors' working lives.

It is neither feasible nor desirable to adopt a rigid, one-size-fits-all approach to impaired registrants. However, much is known about the natural history of the conditions that commonly result in a practitioner being considered to be impaired. This knowledge forms the framework for Council decisions.

The most common disorders affecting impaired registrants referred to the Health Program are alcohol and substance abuse and mental illness, particularly depression.

1.1 Abuse and dependence syndromes

Natural History:
Substance abuse has an acute phase (characterised by positive affect, reward and reinforcement mechanisms), chronic effects (with tolerance, dependence and/or sensitisation and negative affect), detoxification (with varying intensity of withdrawal syndromes), and then varying degrees of craving.

The course is similar for all drugs, including alcohol, being dominated by relapse and remission visually represented as a curve with decay over time. Earlier in the course, the management issues are around identifying precipitants and dealing with drug-seeking behaviour and withdrawal syndromes. Relapse occurs in up to 70% of those who withdraw from opiates, alcohol or nicotine in the following weeks to months. There is evidence from doctors' health programs that the prognosis in the early stages for those with drug or alcohol dependence is improved if doctors engage in a specific treatment program and take time off from their work to do so rather than attempting 'to carry on as usual'.

Later, the concerns are around the medical and social effects of longstanding use. The long term management may be best viewed as similar to any other remitting and relapsing illness. For **alcohol,** these include the neurological effects (on cognitive function and fine motor skills) and on the liver. These effects are wholly or partly reversible when alcohol ingestion ceases. For **narcotics**, this relates to the various medical hazards of intravenous administration.

Australian doctors have low rates of smoking cigarettes compared to the general population, where rates are also falling. This means that doctors with **nicotine dependence** constitute a highly unusual group and nicotine dependence may signal the presence of alcohol abuse/dependence, other substance abuse, depression or another major psychiatric disorder. They also incur the problems associated with long-term smoking (risk of cardiovascular and cerebrovascular disease and the manifold risks to health). Nicotine dependence is also associated with increased rates of clinical depression and suicidal ideation.

There is also evidence from functional brain imaging studies that dependence syndromes *per se* (including stimulants, narcotics, nicotine) affect judgment and decision-making. This is an evolving research field.

Demography:
Alcohol use in medical practitioners reflects patterns in the general community. Referral to the Council program is often late, generally occurring in the 50s. This is partly because early signs are unreliable and there may be a significant degree of denial by the registrant and those around him/her. Doctors in their 40s and above have tended to be fairly conservative in their use of recreational 'street drugs'. However, a recent UK study of junior doctors (Lancet, Sept, 1999) revealed that 11% were regular cannabis users and 10% were regular users of other recreational drugs such as ecstasy and cocaine, while 60% drank alcohol above the safe drinking levels. This raises the possibility that medical students and younger doctors may exhibit greater use of illicit drugs as older doctors in the future.

There are other specific drugs that are preferred by doctors; narcotics, notably pethidine and sedatives, often self prescribed benzodiazepines. Pethidine dependence tends to be the most treatment refractory of all the dependence syndromes. This may be related to specific pharmacological characteristics of the drug. Referral to the Council occurs most commonly in the in mid life.

Implications for affected Registrants:

- Consider some initial 'time out' from practice
- Seek treatment in a specific treatment program
- Expect difficulties in the early stages of treatment. Structure monitoring accordingly
- Expect to be monitored by the Council over 3 – 5 years

1.2 Mood Disorders

Major depression

Natural History:

Early onset Major Depression occurs in the context of a number of predisposing factors, including a history of emotional or physical abuse, early onset of anxiety disorders, health and lifestyle issues, substance abuse and feelings of being trapped and helpless in social and /or work contexts. It can also reflect a cyclical change of mood in those where there are significant underlying personality traits that cause distress to the individual and those around him/her. It is important to seek to restore normal function but also to address the predisposing factors to diminish the possibility of further episodes.

Depression may be melancholic (associated with psychomotor change affecting planning judgment, motor skills and speed) and some individuals may become psychotic. There is also a significant suicide risk. Melancholic depression in younger people (prior to 50s or 60s) can herald bipolar disorder or be due to the effects of stimulant abuse/dependence. Non-melancholic depressions are more common and include a number of types where personality traits are amplified. Depression of this type will not come to the notice of the Council unless there are complicating factors.

Late onset depression (after the age of 65 years) is mediated through emerging vascular disease, other ill health and can herald an evolving dementia. This 'vascular depression' is also more likely to be melancholic in type. Those with late onset depressions require observation over time because illness is likely to recur and their depression may herald other forms of physical or cognitive impairment, overlapping with issues mentioned under 'cognitive impairment'.

Demography:

Major depression is reported in up to 1 in 5 Australians, with women more likely to be afflicted than men. However, doctors are vulnerable for a number of reasons. Some personality characteristics (eg, perfectionistic, dislike of conflict, high expectations of self), coupled with high level of responsibility at work and constant sleep disruption can place doctors at greater risk. Major depression can occur earlier in life or with a late onset (over 65 years). Practitioners who come to the Council's attention cross a wide age range.

Implications for affected Registrants:

- Ensure that your work is appropriately supported
- Expect longer-term monitoring in late-onset and melancholic depression

Bipolar disorder

Natural History:

Bipolar disorder typically has a relapsing course and while full recovery was always thought to be the norm, bipolar episodes may lead to subtle cognitive impairment between episodes and there is often substantial social damage particularly following manic episodes. Referral to the Council often follows episodes which result in significant social and work dysfunction and/or involuntary admission to a psychiatric unit.

Referrals may also come through the Conduct stream as manic registrants, when behaviourally disinhibited, may commit sexual and other interpersonal indiscretions, make unwise decisions, become irritable and 'disruptive' and enthusiastically apply themselves to causes that seem inappropriate. These behaviours are deemed to be out of character with their usual behaviour and are usually clearly part of an 'episode'.

After recovery from an episode, there should be a review of the longitudinal history for the individual, coupled with assessment of the severity of the episode and their insight into the disorder and its impact. These factors should be considered before determining whether the registrant should be discharged from the Program with a CRIA (see appendix) or continue with some form of low level support.

Demography:
Bipolar Disorder affects 1-2% of the population with onset in the 20s and 30s.

Implications for affected Registrants:

- Expect long-term monitoring
- Exit from the Impaired Registrants Program is the goal, especially for participants who have good social support and engagement with their GP and psychiatrist, backed up with a mental health plan and advance directives to come into play during relapse – leading to a CRIA. When these are not present, the Committee may suggest be less willing to consider Exit.

1.3 Cognitive impairment

Natural History:
Mild cognitive impairment [MCI] often presents with subjective memory loss, some objective memory loss and possibly other cognitive impairment. Later, there are changes in personality, more evident memory loss, onset of depression and psychotic symptoms. Behavioural disinhibition related to frontal lobe involvement can present as poor judgment and decision making, lack of tact, uncharacteristic outbursts to patients and colleagues, sexual indiscretions, motor accidents, increased use of alcohol or drugs.

There may be significant barriers to the practitioner's retirement, including fear, misinformation, personality factors, work history, family/marital factors.

Conventional cognitive tests are often not sensitive enough to demonstrate mild cognitive decline. While the Mini Mental State Exam [MMSE] can give a rough indication of severity, there are ceiling effects, so that educated elderly individuals can still score well (29-30) with a mild-moderate degree of dementia. More sophisticated testing is required.

Demography:
The incidence of **dementia** rises rapidly with age, affecting less than 5% of 65-year-olds and 20% of 80-year-olds. Those with a healthy lifestyle and tertiary education generally have a later onset of dementia, so that doctors are on the lower side of these age-related rates.

Implications for affected Registrants:

- With functional evidence of dementia, full cognitive assessment is necessary.
- Consider a graceful retirement (with adoption of Non-Practising Registration).

1.4 Anorexia nervosa

Natural History:
Of the eating disorders, **Anorexia Nervosa** is usually the only one that leads to Council referral. The deliberate weight loss fuelled by body image distortion and fear of fatness leads

to an emaciated appearance with expression of concern by others (patients and staff members) about a registrant's ability to perform their work. There are occasional self-referrals.

There is usually a period of years of disordered eating prior to the situation being sufficiently grave for Council involvement. Anorexia Nervosa is a chronic condition and during its course, there has often been an accommodation to the disorder so that behaviours which others would regard as abnormal or dysfunctional are no longer regarded as such by the sufferer. There are consequently often significant differences between the registrant's view of their function and that of the Council and its agents.

There may be issues related to earlier experience in life (eg, childhood sexual, physical or emotional abuse) that are overlooked because of the concerns about extreme weight loss. These experiences can be part of the motivation to study medicine (to look after others in a way that was not available to the registrant). If not addressed, these issues can affect motivation for recovery and doctor-patient interactions. They are however, difficult to tackle and are the purview of the treating psychiatrist. The role of the CAP to ensure that important issues in the treatment of the individual participant are being considered.

The problems, which impact on work in a clinical setting include subtle cognitive dysfunction and depression related to a low body weight, and medical consequences of anorexia (eg, osteoporosis, cardiac arrhythmias, hypotension, lowered immunity). Those with chronic anorexia often choose to try to function at a weight that is just above the absolute minimum Body Mass Index [BMI] or weight that is seen as 'safe'. A BMI of 17.5 may be associated with subtle cognitive dysfunction. A BMI of 15 requires hospitalisation of the individual (Russell).

There is a potential to relapse into anorexia or bulimia in times of stress.

Demography:
Onset is generally in the mid-teens or early adult life.

Implications for affected Registrants:

- Progress is based on an objective measure, BMI. Should a registrant's BMI fall below 17.5, monitoring in the Impaired Registrants Program is appropriate. At a BMI of 15, suspension may be required.

1.5 Personality disorder (particularly "Cluster B" - Borderline, Antisocial, Narcissistic, and Obsessional)

Natural History:
Registrants with personality disorders often present more as 'disruptive doctors' as a result of a complaint or concern from others (both patients and staff), rather than self referral. Others, particularly with 'Cluster B' disorders come to notice due to matters related to alcohol/substance abuse, or depression or suicide attempts. They may also be referred from the Conduct Stream with depression or suicidal ideation contingent on discovery of the consequences of their behaviour.

The behaviours that cause concern are usually longstanding rather than part of discrete episodes, although they may be more pronounced during periods of stress and substance abuse. For those with 'Cluster B' personality traits, depression tends to be part of unstable mood control rather than discrete clinical episodes. Those with anxious and perfectionistic traits are vulnerable to depression.

Some of these registrants will have had difficult, deprived and abusive childhoods. These issues may have been 'psychologically buried' but may re-emerge during the years of clinical training and as a junior medical officer, when they have to deal with a variety of challenging

clinical situations, including talking to other people who have been abused. The registrants may have great difficulty in discussing these sensitive issues. If not addressed, these issues can affect motivation for recovery and doctor-patient interactions. They are however, difficult to tackle and are the purview of the treating psychiatrist. The role of the Council-Appointed psychiatrist is to ensure that important issues in the treatment of the individual registrant are being considered.

Implications for affected Registrants.

- The Council will consider co-morbidities such as substance abuse and depression.
- Given that the Council's focus is public protection, decisions will focus on the functional consequences for patients.

1.6 Psychotic disorders

Natural History:
The prognosis for **Schizophrenia** has been significantly improved with assertive early intervention. Despite this, there is a range of severity, and compliance with treatment may be compromised by the presence of significant psychotic experiences that render the sufferer distrustful. Ongoing substance abuse may also compromise treatment. In the small group of registrants who are distrustful and lack insight, there are often significant difficulties in reaching a mutually agreeable management plan. For some, the degree of disruption to cognitive processing and interpersonal relationships may challenge their ability to complete their medical studies. This is a complex area but in some cases, it is better to encourage an alternative career choice.

Psychotic episodes can also be part of a Bipolar Disorder or Major Depression. If this is the case, they are likely to recur with subsequent episodes and increase the possibility of the need for ongoing Health Program involvement if they are to continue to be registered with the Council.

A few individuals will develop a late onset psychosis as part of a later onset depression, early dementing process or in the context of a medical illness. This is generally self-limiting or leads to retirement due to factors relating to the index illness.

Demography:
Schizophrenia is a serious psychiatric disorder with an onset in the late teens and to mid-20s in men and mid 20s to 30s in women. The lifetime risk is about 1%: the presentation in young men is often complicated with substance abuse. Those with an onset in high school are unlikely to negotiate entry into a medical faculty but there will be some who develop the disorder during their medical studies.

Implications for affected Registrants:

- It may be wise to consider an alternative career
- The Council will consider co-morbidities such as substance abuse
- You will require long-term, close monitoring

2. COMPLIANCE WITH CONDITIONS

The dual aims of registration conditions are to protect the public and, where possible, to allow impaired registrants to remain in the medical workforce. It is only through compliance with conditions that the Council can be assured that these objectives are met.

No consideration will be given to easing any condition of registration unless a registrant has been fully compliant with all conditions for a period of at least 12 months.

Drug testing:
A registrant should be able to demonstrate **18 months** of full compliance and negative thrice-weekly drug tests, before consideration is given to easing to random drug testing. Registrants should be able to demonstrate a further **12 months** of full compliance and negative random drug testing prior to testing being ceased.

A related issue is that of authority to prescribe Schedule 8 drugs (drugs of addiction).

As doctors pass through the Impaired Registrants Program with clear urine drug screening, there is usually an expectation that their Schedule 8 Authority will be returned. It appears that this relates to;

- a belief that return of Schedule 8 Authority is their right
- a belief that return of Schedule 8 Authority is a reward for their compliance and rehabilitation.
- a belief that return of Schedule 8 Authority marks the end of an unhappy chapter in their career with the restoration of 'clean' registration.
- real or perceived need

Unless there is a demonstrable need for the doctor to have Schedule 8 Authority, its return may be withheld, or limited to prescribing oral Schedule 8 drugs. In some circumstances, it may be appropriate to limit authority to prescribing but not handling, possessing or administering Schedule 8 drugs.

It should be noted that a doctor can exit the Impaired Registrants Program with unconditional registration and still have their prescribing authority limited.

Breach of Conditions

Breach of conditions are always to be viewed in the context of the remaining decision parameters. In particular, the nature of the impairment provides helpful guidance when the Council considers the consequences of the breach.

For example, early relapse and breach in the case of drug dependence is not entirely unexpected and is usually managed within the Impaired Registrants Program. Serious or repeated breach of conditions after the initial 12-month period stabilisation period in the program either demonstrates a willful disregard for the Council's requirements, or is a manifestation of the practitioner's impairment. Either way, managing serious and repeated breaches by imposing further conditions is generally ineffective and the matter will be referred to the conduct stream where the doctor's registration may be suspended or withdrawn by the Medical Tribunal.

There are special consequences for practitioners who have Critical Compliance Conditions on their registration and who breach those conditions. These practitioners are referred to the section "Breach of Conditions" on page 42 of this handbook.

3. PROFESSIONAL SUPPORT

Registrants who have supportive professional relationships and work environments are more likely to manage satisfactorily without the involvement of the Council. Those that work in solo practice or are secretive about their impairment require closer supervision by the Council.

All impaired registrants are encouraged to discuss their impairment with their employers and selected colleagues.

4. PERSONAL SUPPORT

Personal support and engagement with the community are recognised as positive predictors of recovery from all disorders, but particularly from addiction. They demonstrate insight on the part off the impaired practitioner and they increase the chances of early identification of illness or relapse in addition to providing an environment in which recovery or stabilisation can occur.

5. INSIGHT AND MOTIVATION TO CHANGE /WORK WITH PROGRAM

It is apparent that a registrant's insight into their impairment and circumstances is a critical factor when considering their progress through the Impaired Registrants Program.

Insight is, to a large extent, the most important factor distinguishing illness from impairment. An ill doctor who is insightful and practises within their capability is clearly not impaired. An ill doctor who lacks insight into the impact of their illness on their practice is clearly impaired and should enter or remain on the Impaired Registrants Program.

Application of these Decision Parameters

1. Each relevant decision parameter will be given explicit consideration at every critical decision point relating to a registrant's progress through the Impaired Registrants Program.

2. This document guides Council Appointed practitioners in their reports to the Council.

3. This document guides Council Review Interviewers in their reports to the Health Committee.

4. This document guides the Health Committee in their decision making.

5. This document guides the Medical Tribunal in relation to applications from suspended or deregistered impaired practitioners for restoration to the Medical Register.

Medical Council Policy: Health Program participants with Bipolar Disorder

BACKGROUND

In 2003, the Council endorsed a set of decision parameters that are considered at each critical decision point in a practitioner's involvement with the Health Program. The objective of the decision parameters is to achieve appropriate and consistent decisions in relation to program participants.

The key decision parameters relate to:

1. The nature of the practitioner's impairment
2. The practitioner's compliance with their registration conditions
3. The practitioner's personal and professional support
4. The practitioner's insight into their impairment and motivation to work with the Health Program.

The decision parameters have proved to be very successful and have largely met the original objective of guiding appropriate and consistent decision making. The nature of the practitioner's impairment is a major factor in determining their progress in the Health Program.

Since the endorsement of the decision parameters, the Health Committee's practice has been to bring all practitioners with Bipolar Disorder on to the Health Program and to maintain them in the Health Program in the long term, albeit with low level monitoring.

At the March 2007 Health Forum, the following points were noted

- Bipolar Disorder is recurrent for the majority of sufferers. 55% have 4 or more episodes of mania; 11% have 20 or more episodes of mania
- Many do not fully recover between episodes
- Only 1 in 4 has no symptoms in between episodes
- There is commonly selective mild cognitive impairment in verbal learning, memory and sustained attention. This may be due to medication

However

- The Council does not actually do much for well practitioners with Bipolar Disorder, other than keeping them in the system in case destabilisation occurs.
- If the Council is confident the practitioner is stable and in appropriate care, participation in the Health Program should not be for life. In fact it may be destructive for it to be so.

The Council must find a balance between its responsibility to protect the public and the needs of individual practitioners. The Health Forum endorsed a system whereby practitioners with stable illness and good support mechanisms may not need to enter the Health Program or may be able to exit the Health Program, providing certain safeguards are in place.

Following consultation on a discussion paper prepared after the Health Forum, the Council's Health Committee has endorsed the following policy.

POLICY

A. Before making a decision about a practitioner's further participation in the Health Program, the following factors should be considered. Not all will be relevant for each practitioner, and they should not be quantified into tick-a-box criteria. Stable illness,

strong support mechanisms and practitioner insight are key considerations.

1. Illness and treatment

- Number of episodes
- Frequency of episodes
- Severity and impact of episodes (eg required involuntary treatment)
- Length of episodes (eg how much time off work)
- Nature of episodes (eg manic, hypomanic, depressed, mixed)
- Risks associated with episodes (eg suicidality, risks at work)
- Co-morbid conditions (eg substances, personality disorder, and medical especially as it might impact on treatment such as thyroid/renal problems)
- Stability of psychiatric care (eg same / changes of psychiatrist)
- Stability of care by a General Practitioner
- Stability of treatment (eg same / many changes of medication)
- Complications of treatment (eg likely to need changes in medication)
- Complexity of treatment (eg mono vs polypharmacy to stay well)
- Nature of treating team

2. Compliance

- Compliance history with the Health Program

3. Professional support

- Job stability
- Supports at work
- Other professional supports (eg outside supervision)
- Stresses at work (eg nature of job, interpersonal)
- Professional and job plans
- Stage of career

4. Personal support

- Personal and social supports
- Engaged in a 'holistic' approach to treatment (eg bio-psycho-social)

5. Insight and motivation

- Nature and depth of insight into illness and impact on ability to work safely
- Relapse strategies in place (eg early warning signs and response plan)
- Collaborative approach to working with Council
- Positive approach to working with their treating doctor
- Positive approach to their illness and staying well

B. It is important that early warning mechanisms remain in place if it is thought that further participation in the Health Program is unnecessary. As a prerequisite, the practitioner must:

- authorises the treating psychiatrist in writing to advise the Council if he/she is non-compliant with treatment, terminates treatment against advice, does not attend for treatment, changes treating practitioners or if there are concerns that his/her illness is adversely affecting his/her practice of medicine

- authorises the treating general practitioner in writing to advise the Council if he/she is non-compliant with treatment, terminates treatment against advice, does not attend for treatment, changes treating practitioners or if there are concerns that his/her illness is adversely affecting his/her practice of medicine.

Chronic Relapsing Illness Authorisation

NAME: _____ **MPO:** _____

ADDRESS: _____

I authorise my treating practitioners to contact the Medical Council if I am non-compliant with treatment, terminate treatment against advice or if there is any concern about my mental state.

Should I change treating practitioners, I undertake to notify the Medical Council of the new practitioner's name.

Treating specialist (psychiatrist): _____

Address: _____

Treating general practitioner: _____

Address: _____

Signed: _____

Dated: _____

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