ANZCA
FPM

Promoting good practice and managing poor performance in anaesthesia and pain medicine

The purpose of these guidelines is to provide advice to managers, leaders, mentors and colleagues on promoting an environment that supports excellent professional standards and to assist in identifying and managing practitioners performing below acceptable professional standard.

There are many different practice settings in anaesthesia and pain medicine in Australia and New Zealand. These guidelines aims to cover both public and private practice. The managerial roles are more clearly defined in public practice. In both settings, but more often in private practice, it may be a colleague that finds themselves in the role of manager, adviser or mentor.

Whilst experienced clinical directors will already understand and practice the principles contained in this guide, it is written primarily to support practitioners who may find themselves in a position to improve local support mechanisms or have been asked to assist a colleague where there are concerns about professional or technical performance.

There are many factors that may impact on professionalism and skills over time. Supportive environments can minimise negative influences such as isolated practice or lack of learning opportunities. Feedback on performance can assist practitioners to make sensible choices about further study, skill development, coaching or retirement.

It is also well recognised that cognitive skills decline with age and that engagement in continuing professional development (CPD) is essential.

The investigation and management of concerns about poor performance is a sensitive issue and there is considerable scope for the problem to be mishandled. Whilst this guide provides many opportunities to support clinicians by acknowledging the principles of natural justice and through the provision of remediation, patient safety is an absolute priority.

Content

This guide consists of four sections and a page of references:

- Methods within departments and available to Fellows in solo or group practice for maintaining excellence in professional practice
- Advice for the individual practitioner on the maintenance of high clinical standards throughout a professional career
- How to identify poor performance
- Guidance on how clinical directors or colleagues should proceed when concerns arise about a Fellow's performance
- References

Australian and New Zealand
College of Anaesthetists
& the Faculty of Pain Medicine

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Maintaining excellence in professional practice

Acceptable standards of practice are outlined in a number of Australia and New Zealand College of Anaesthetists (ANZCA) professional documents, Australian Society of Anaesthetists (ASA) position statements, the ANZCA Code of Professional Conduct and the Medical Board of Australia (MBA) code of conduct: "Good Medical Practice" and the Medical Council of New Zealand (MCNZ) "Good Medical Practice".

Examples of good and poor behaviour, modelled on the CANMEDS framework, can be found in the booklet entitled *Supporting Anaesthetist's Professionalism and Performance: A guide for Clinicians*.

Within departments and groups, there should be a culture of maintaining high standards. There should be clear expectations of:

- The individual anaesthetist's personal responsibility for professional standards.
- Departmental responsibility for providing a high quality service.
- Managerial responsibility for providing the necessary staff and facilities to achieve this.

Where little attention is paid to individual professionalism, efficient running of the department, record keeping, agreement on clinical guidelines, audit, and local or central programs of continuing professional development (CPD), standards are likely to fall.

Anaesthetists and specialist pain medicine physicians should concentrate on maintaining overall standards within their department or group practice and take appropriate steps to prevent any individual's performance from becoming seriously deficient. In the context of isolated practice, all clinicians need to understand the procedures to be followed if seriously deficient performance in a colleague is suspected.

Established departments of anaesthesia should be prepared to support colleagues in isolated clinical practice through CPD activities, practice review and mentor programs.

The role of appraisal

Practice appraisal is now considered a cornerstone of CPD and revalidation. All Fellows should engage in activities that review their own practice in order to experience and adapt to collegial feedback and as a way to develop reflective skills.

Examples of activities within groups that foster high quality professional practice:

- Support for continuing professional development (CPD); including audit, multi-source feedback, patient feedback, peer review and case discussion.
- Focus on high quality teaching, learning and research.
- A strong mentor program.
- Collaboration with other anaesthetic, medical and non-medical professional groups. Actively promote transition planning, for example, trainee to consultant, development of senior skills, planning for retirement.
- Visible support mechanisms for colleagues in difficulty.
- Leadership and management styles that are transformational, participative and open.
- Positive group culture with good communication skills.

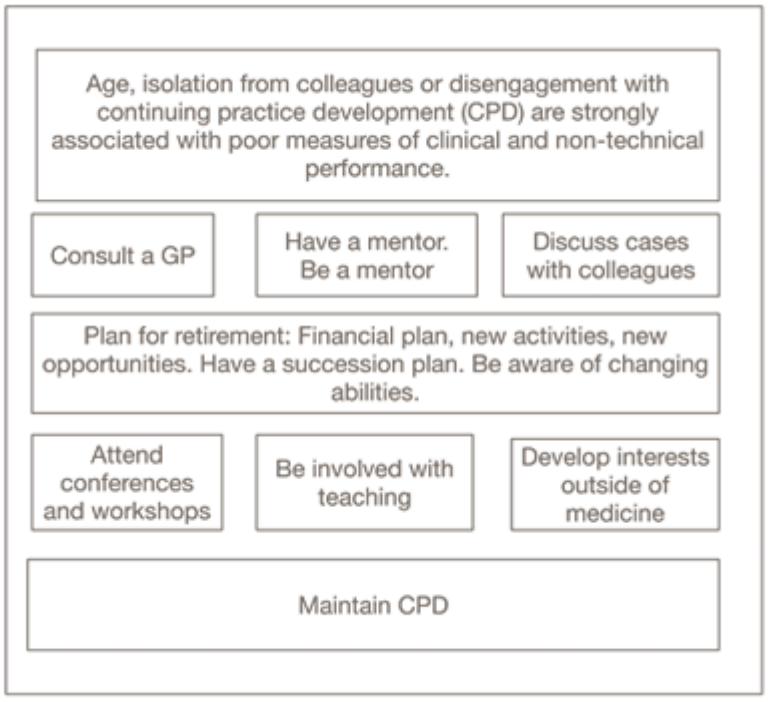
- High group expectations of documentation, communication, clinical skills, knowledge, behaviour and participation in national and international community activities.

Personal activities to maintain excellence in professional practice

The practitioners most likely to be reported to the Australian Health Practitioner Regulation Agency (AHPRA) or Medical Council of New Zealand (MCNZ) are those who are not engaged in continuing professional development (CPD), those in isolated practice, (geographic or intellectual isolation), older practitioners and those previously reported to those bodies.

Recognising these risk factors and managing them early is essential. Seek out activities that reduce the impact of isolation and aging on performance.

- Maintain good health – have a general practitioner.
- Participate in CPD.
- Engage in practice review. Ask for open, honest and frank evaluation.
- Have a mentor and colleague to discuss clinical and life challenges.
- Have a retirement plan that includes more than financial security.
- Be involved in teaching.
- Maintain an association with a department of anaesthesia or pain medicine.



Attending conferences and workshops is part of maintaining CPD.

How to identify poor performance

All doctors are expected to remain up to date and competent in the work they do.

Identifying poor performance is often difficult as clinical practice routines vary, communication styles can cloud non-expert evaluation and the performance of expert skills can vary with life events and on a daily basis. In practice, repeated patterns of poor performance rather than a single episode are more likely to

lead to concern.

Participation in a continuing professional development (CPD) program is a formative experience and is unlikely to identify poor performance. However, non-participation in a CPD program may be a signal of deteriorating performance.

Fitness to practise may be impaired by reason of misconduct, criminal conviction or caution, determination by another regulatory body, deficient performance or ill-health.

When dealing with performance or health issues, it is important to identify areas where remedial action such as retraining or medical treatment is possible, whilst protecting patients and practitioners from harm.

Concerns about a doctor's conduct or capability can come to light in a wide variety of ways, for example:

- Concerns expressed by other clinical or non-clinical staff.
- Review of performance against previous plans.
- Concerns raised at appraisal or disengagement with the appraisal process
- Clinical audit.
- Clinical governance (including reports of significant events/critical incidents).
- Lack of participation in, or inadequate, CPD.
- Information from regulatory bodies, such as Australian Health Practitioner Regulation Agency (AHPRA) or Medical Council of New Zealand (MCNZ) or specialist colleges.
- Litigation following allegations of negligence.
- Information from the police or coroner.

Principles in managing allegations of poor performance

Identifying and managing the poorly performing colleague is always difficult. This section provides some benchmarks to guide your actions.

The person concerned will be a colleague and often a friend, sometimes of long standing. It is not easy to view the situation objectively and it helps, therefore, to benchmark your actions to the following four fundamental principles:

1. Protect patients from harm. This is the primary objective that must always be foremost.
2. Ensure that the colleague is treated justly. Procedures should be fair and open.
3. Provide opportunities for the colleague to improve their performance.
4. Identify appropriate standards and milestones against which improvement can be assessed, and criteria for success or failure of remediation.

In any investigation into a colleague's performance it is important:

- To keep records of everything: conversations, telephone calls, meetings and interviews. These may be needed at a later stage.
- That you do not jump to conclusions about the outcome. A thorough and persistent process to establish the facts and openness with the colleague concerned is the only way to protect patients, maintain standards and act justly. All parties should strive to maintain confidentiality although at times rumours may spread during an examination of a colleague's performance. It is important, therefore, to keep other colleagues informed in general terms only, but at the same time respect confidentiality.

- To avoid looking into a colleague's performance via a quality assurance activity protected by qualified privilege in Australia, or protected quality assurance in New Zealand. Information that arises from a qualified privilege or protected quality assurance activity is confidential and cannot be used in disciplinary or other proceedings against a person participating in that activity.

Principles of natural justice. Fairness and openness

Doctors who are the subject of procedures dealing with poor performance concerns should always be given the opportunity to have an advocate or supporter which them at formal or informal meetings.

All discussions should be documented (even if the concern is low) and the doctor should be allowed to verify what has been recorded.

Seeking advice and further guidance

In managing concerns about poor performance, a number of individuals and organisations can (and in some cases should) be involved, sometimes making the process a complex one.

The local and external procedures detailed below for managing performance concerns are an attempt to provide clarity. Professional bodies representing Anaesthesia and Pain Medicine can also act as a first point of contact for advice about managing a performance concern.

If inadequate performance is suspected or has been detected it should first be dealt with *locally*. Involving an external agency should be considered if the concern is a serious one or has been repeated despite previous assistance. Involvement of an external agency or referral to Australian Health Practitioner Regulation Agency (AHPRA) or the Medical Council of New Zealand (MCNZ) does not necessarily bring local procedures to an end.

Most performance, health and conduct problems in doctors are best handled locally; using procedures established in the hospital, institution or group associated with the practitioner. These procedures must comply with the principles of natural justice above.

In a hospital, this is the responsibility of the medical director, who is required to work in partnership with the director of human resources. In situations where a suitable human resource infrastructure does not exist, help may be sought from a local or associated institution.

In some cases, both local procedures and involvement of an external agency, at the same time, will be necessary. In cases where local procedures have been activated first, but the colleague has failed to respond to any actions, or there are concerns about conflicts of interest or fairness of the process, involvement of an external agency should be considered. The preferred outcome is for the concern to be resolved early.

ANZCA

ANZCA's regulation 26 provides a mechanism for the investigation of a complaint or an allegation of poor professional conduct through a standards committee.

After considering a complaint or matter, the committee may recommend to ANZCA Council that it: take

no action; dismiss the matter or complaint and exonerate the Fellow; counsel the Fellow and/or require the Fellow to participate in any relevant College program or activity; censure the Fellow; refer the matter or complaint to the Council for consideration (including suspension or termination of Fellowship); or refer the matter or complaint to an appropriate Authority. Assessment of a Fellow's performance can be undertaken according to regulation 27.

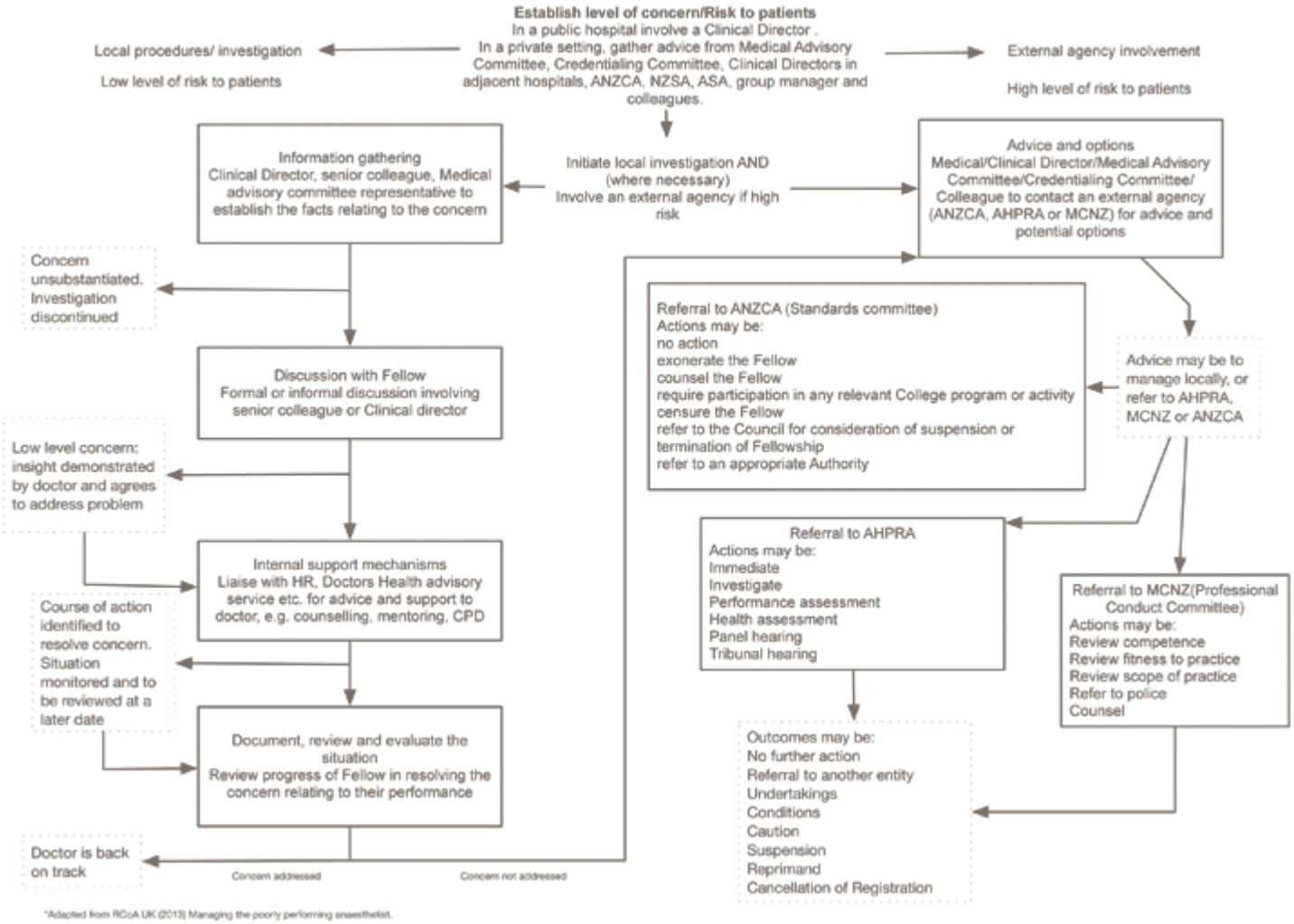
Activation of regulation 26 or regulation 27 requires a written request to the CEO of ANZCA. The CEO can be contacted by email.

The Australian Society of Anaesthetists (ASA) provides position statements that may be of value when advising a colleague on professional standards.

The Welfare of Anaesthetists Special Interest Group (SIG) have created many specific resource documents that may assist in many circumstances.

AHPRA and the MCNZ provide mechanisms via notification for managing matters of a serious nature.

Criminal actions should be reported to the police.



Managing poor performance

Remember
- Keep records
- Do not jump to conclusions
- Investigations should be thorough
- Seek advice

Main principles
- Protect patients from harm
- Fair and open
- Benchmark to standards
- Look for opportunities for improvement

Local procedures

This avenue is appropriate for concerns which are initially non-specific and where patients may or may not be immediately at risk.

Gather discreetly, as much information as possible. Ignore hearsay evidence and try to establish the facts. Anyone making an allegation against a colleague must be prepared to support it in writing.

It is usually helpful to consult trusted, senior colleagues before deciding how to proceed. If a concern appears to be well-founded but not serious, it may be sufficient for one or two colleagues to bring it informally to the colleague's attention, together with appropriate advice.

All concerns associated with a hospital environment, including those regarded as low level, should also be reported to the clinical director (and in some organisations, the medical director, medical advisory committee or credentialing committee), so that he or she has an overview of these informal conversations.

Repeated low level concerns about an individual practitioner over a period of time may represent a pattern of behaviour which needs addressing more formally, and raising such concerns with the clinical or medical director (in a hospital setting) may help to reduce the risk of them escalating to a high level performance concern.

There may be circumstances in private, isolated or group practice when informal networks with a public hospital can provide experienced assistance and advice from a clinical or hospital director.

Possible remediation activities

Where concerns about professionalism or technical performance have been identified and there is a low level of risk to patients, it may be appropriate to recommend suitable remediation activities. Depending on the concern, these may include:

- Attendance at courses such as Effective Management of Anaesthetic Crises (EMAC), Early Management of Severe Trauma (EMST) and emergency responses.
- Attendance at workshops reviewing continuing professional development (CPD). A listing of events can be found here.
- Communication workshops, such as with the Cognitive Institute.
- Counselling with a psychologist or psychiatrist.
- Review by the Doctors' Health Advisory Service.
- Supervised sessions at a public hospital.
- Read the Supporting Anaesthetists' Professionalism and Performance: A guide for clinicians.

When the colleague has no insight into the problem

In this situation the practitioner should be informed that the clinical director (in a hospital setting), or similar local authority (in a private setting) must be involved at an early stage.

This enables a senior experienced manager to view the issues in perspective and to consider a range of options for how best to proceed. It may also be helpful later should the clinical director or experienced manager be criticised by the practitioner concerned or by other colleagues.

If the concerns are serious or patients are clearly being put at risk, or informal discussions had failed to resolve the issue, in a hospital setting, the clinical director and medical director should be contacted urgently.

In a private setting, this may be the medical director of the local hospital, group manager or experienced colleague. The medical director, group manager or colleague may wish to seek help from ANZCA or the ASA in providing impartial advice.

In a public hospital setting, the clinical director may be asked to be the investigating officer. This is most appropriate as the clinical director is familiar with accepted standards of practice and the day-to-day running of the department of anaesthesia or pain medicine and understands how the specialty is practised locally.

Exclusion from work

Excluding doctors from work for long periods is a cause for concern. In the context of this guide, the phrase ‘exclusion from work’ is used to avoid confusion with "suspension" of the right to practise which may be imposed by AHPRA or MCNZ.

It should be noted that restricting a doctor’s practice for long periods can create isolation and loss of skill. Exclusions should therefore be considered as a last resort.

Situations that may require early notification

Referral to AHPRA or MCNZ should be considered if the practitioner fails to display appropriate insight into the problems, has left the area but may have taken those problems to another area of the country or has moved exclusively into private practice.

In particular AHPRA or MCNZ may be the only body able to take effective action where serious problems arise in relation to a doctor working as a transient locum or working solely in private practice. Performance and health issues are unlikely to require immediate referral to AHPRA or MCNZ as long as the practitioner has insight into the problem and is willing to co-operate with local initiatives to help resolve the concerns.

Health practitioners in Australia and New Zealand are subject to some mandatory reporting requirements.

In Australia, health practitioners must inform AHPRA if they have a reasonable belief that a registered health practitioner’s behaviour constitutes notifiable behaviour, defined as:

- Practising while intoxicated by alcohol or drugs.
- Sexual misconduct in the practice of the profession.
- Placing the public at risk of substantial harm because of an impairment (health issue).

- Placing the public at risk because of a significant departure from accepted professional standards.

In New Zealand, health practitioners must advise the registrar of the responsible authority if they have reason to believe another health practitioner is unable to perform the functions required for the practice of his or her profession because of a mental or physical condition (section 45, Health Practitioners Competence Assurance Act 2003).

References

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ANZCA (2015) Supporting Anaesthetists' Professionalism and Performance: A guide for clinicians (accessed October 2016).

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ANZCA professional documents regarding professional and clinical standards:

- ANZCA (2014) PS03 Guidelines for the Management of Major Regional Analgesia
- ANZCA (2016) PS07 Guidelines on Pre-Anaesthesia Consultation and Patient Preparation
- ANZCA (2014) PS09 Guidelines on Sedation and/or Analgesia for Diagnostic and Interventional Medical, Dental or Surgical Procedures
- ANZCA (2010) PS15 Recommendations for the Perioperative Care of Patients Selected for Day Care Surgery
- ANZCA (2008) PS16 Statement on the Standards of Practice of a Specialist Anaesthetist
- ANZCA (2015) PS18 Guidelines on Monitoring During Anaesthesia
- ANZCA (2006) PS19 Recommendations on Monitored Care by an Anaesthetist
- ANZCA (2005) PS26 Guidelines on Consent for Anaesthesia or Sedation
- ANZCA (2015) PS28 Guidelines on Infection Control in Anaesthesia
- ANZCA (2014) PS31 Guidelines on Checking Anaesthesia Delivery Systems

- ANZCA (2013) PS37 Guidelines for Health Practitioners Administering Local Anaesthesia
- ANZCA (2010) PS38 Statement Relating to the Relief of Pain and Suffering and End of Life Decisions
- ANZCA (2012) PS40 Statement on the Relationship between Fellows, Trainees and the Healthcare Industry
- ANZCA (2013) PS41 Guidelines on Acute Pain Management
- ANZCA (2014) PS42 Statement on Staffing of Accredited Departments of Anaesthesia
- ANZCA (2010) PS49 Guidelines on the Health of Specialists and Trainees
- ANZCA (2016) PS50 Guidelines on Return to Anaesthesia Practice for Anaesthetists
- ANZCA (2009) PS51 Guidelines for the Safe Administration of Injectable Drugs in Anaesthesia
- ANZCA (2013) PS53 Statement on the Handover Responsibilities of the Anaesthetist
- ANZCA (2014) PS57 Statement on Duties of Specialist Anaesthetists (previously TE06)
- ANZCA (2012) PS58 Guidelines on Quality Assurance in Anaesthesia (previously TE09)
- ANZCA (2016) PS62 Statement on Cultural Competence (**PILOT**)

Welfare SIG documents

- Welfare SIG (2011) RD 01 Personal Health Strategies
- Welfare SIG (2011) RD 03 Depression and Anxiety
- Welfare SIG (2011) RD 04 Retirement
- Welfare SIG (2011) RD 05 Critical Incident Support
- Welfare SIG (2011) RD 07 Sexual Misconduct
- Welfare SIG (2011) RD 08 Mentors
- Welfare SIG (2011) RD 09 Why don't you have your own GP?
- Welfare SIG (2011) RD 10 Breaking Bad News
- Welfare SIG (2013) RD 12 The isolated anaesthetist
- Welfare SIG (2011) RD 13 Impairment in a Colleague
- Welfare SIG (2011) RD 15 Training and Family Responsibilities
- Welfare SIG (2011) RD 16 Welfare Issues in the Anaesthetic Department
- Welfare SIG (2011) RD 20 Substance Abuse
- Welfare SIG (2011) RD 22 Bullying and Harassment
- Welfare SIG (2011) RD 23 Communication Consent
- Welfare SIG (2011) RD 24 Mandatory Reporting
- Welfare SIG (2011) RD 25 The Disruptive Anaesthetist