

**Kaunihera Rata o Aotearoa | Medical Council of New Zealand, New Zealand Private  
Surgical Hospitals Association, and participating Private Surgical Hospitals  
Memorandum of Understanding**

**Signatories and parties**

This memorandum of understanding (MoU) has been agreed in form and content by Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand (MCNZ) and the New Zealand Private Surgical Hospitals Association (NZPSHA)

The MOU is between the MCNZ, NZPSHA, and each participating private surgical hospital (PPSH) named in Appendix 3 (the “parties”), as if this MOU had been signed direct between the MCNZ and that PPSH. Unless expressly stated, this MOU does not create any relationship or obligation between any PPSHs, or between the NZPSHA and any PPSH.

**Introduction**

MCNZ and PPSHs have a shared interest in ensuring that doctors who practise at the PPSHs are competent and safe to practise. The parties, separately, collect and retain information about medical practitioners that will, at times, be relevant to the other organisation. The parties are committed to sharing information where it is appropriate to do so to ensure the provision of safe health services and where it is lawful to do so.

This provides a framework for the appropriate exchange of information, between the MCNZ and the PPSH, about doctors.

**Purpose**

The purpose of the MoU is to set out the respective roles and responsibilities of the MCNZ and the PPSH and the objectives, intentions, and expectations of the parties related to:

- the regulation of doctors in New Zealand, including the management of any competence, performance, conduct and health issues;
- the credentialling of self-employed doctors to practise in PPSHs;
- the context for the operation of the MoU; and
- how the PPSH and the MCNZ intend to interact with each other.

Central to this MoU is the understanding that the MCNZ and the PPSH collect information about individual doctors, both from the particular doctor and others, for the purposes of ensuring that doctors are competent and safe to practise medicine and that the safety of the public is paramount. The parties recognise that sharing information about an identifiable doctor, between the parties, is lawful where the information is directly related to the purpose for which it has been collected.

This document is not intended to create binding legal obligations, but it sets out the parties’ expectations of each other in discharging their respective functions and meeting their objectives. The parties to this MoU will use all reasonable endeavours to meet their responsibilities under this memorandum.

**Principles**

The parties recognise that:

- PPSHs have responsibilities to ensure that health and disability services provided within their facilities are consistent with expected standards of practice;
- the MCNZ has a responsibility to protect the health and safety of the public by ensuring the competence and fitness to practise of doctors.

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

- (a) Communicate with each other in an open and timely manner (including in relation to any request to review this MoU).
- (b) Work in a collaborative and constructive manner.
- (c) Share information where the information will enable the other party to carry out its functions and objectives. Wherever possible, the parties are committed to being proactive in sharing information rather than simply waiting for any request for information.
- (d) Comply with the provisions of legislation relevant to our respective roles and responsibilities.
- (e) The MCNZ will make decisions within its decision-making principles (refer Appendix 3 to this MoU).
- (f) The MCNZ and the PPSHs have their own respective strategic and policy directions and separate relationships with doctors (refer Appendix 3 and 4 to this MoU).
- (g) Any disagreements between the MCNZ and the PPSH are resolved in good faith and in a timely fashion.

### **Disclosure of personal information**

The parties acknowledge that the exchange of the type of information referred to in this MoU will involve the sharing of personal information about doctors. The parties acknowledge their obligations and powers under the Privacy Act 2020 and the Health Practitioners Competence Assurance Act 2003 (HPCAA).

The parties record that information about identifiable doctors can be lawfully shared where the sharing of information is in connection with the purpose with which the information was obtained or where it is directly related to such a purpose. The parties will take reasonable steps to ensure that where information is collected from a doctor, the doctor is informed about the purpose for which it is collected and that it may be shared, where necessary, with other organisations where it is consistent with that purpose. The parties will do this by (amongst other possible actions):

- (a) The MCNZ making this MoU and its Privacy Statement publicly available on its website; and
- (b) The PPSH including in its credentialling documentation:
  - i. an express statement that information collected by the PPSH may be shared with the MCNZ and other organisations where it is appropriate to do so for the purpose of ensuring appropriate and safe standards of practice; and
  - ii. an express statement that doctors understand that a condition of being granted privileges is that the doctor authorises the disclosure of information by MCNZ to the PPSH where it is appropriate to do so for the purpose of ensuring appropriate and safe standards of practice.
- (c) Where requested to do so by the MCNZ, the PPSH will provide the particular doctor's written confirmation of agreement with the PPSH credentialling requirements so as to provide further clarification of the authorisation for the MCNZ to disclose information to the PPSH.

### **Meetings**

The MCNZ and the NZPSHA agree that holding regular meetings is important for developing and maintaining an effective working relationship between the MCNZ and PPSHs.

Such meetings or communications will address matters of mutual interest, including:

- (a) how the MoU relationship is working and how our mutual roles and responsibilities are being delivered,
- (b) the sharing of information,
- (c) opportunities for improvement,
- (d) how such improvement might be implemented,

- (e) wider medical regulation issues as they relate to the PPSHs, and
- (f) other relevant matters.

The MCNZ will be represented by the Chief Executive, and relevant senior staff. The NZPSHA will be represented by its President, Executive Director, and other relevant representatives. The NZPSHA will report back to the PPSHs on the outcomes of such meetings.

It will be open to the MCNZ and individual PPSHs to meet as is required.

#### **Review**

This MoU will be reviewed after one year and then from time to time as agreed between the parties.

#### **Signatures**



Blair Roxborough  
President NZPSHA



Date signed



Kiri Rikihana  
Deputy CEO, Kaunihera Rata o Aotearoa | Medical Council of New Zealand



Date signed

- Appendix 1** Roles and Responsibilities
- Appendix 2** Glossary
- Appendix 3** Participating Private Surgical Hospital Profile Details

## Appendix 1

## Roles and Responsibilities

The respective roles and responsibilities of the MCNZ and the PPSH are outlined under key headings below). The left hand column outlines the MCNZ's role. The PPSH's role is shown in the matching column on the right.

### Medical Council of New Zealand

### *Participating Private Surgical Hospitals*

#### Register

Where a doctor is known to have current credentialed status with a PPSH the MCNZ will record that information on the register (as additional non-public information).

Will regularly inform the MCNZ whenever a doctor is credentialed to work at a PPSH hospital (and the specific hospital at which the doctor is credentialed), including any changes to the credentialed status as agreed (see below).

#### Practising certificates

Will email doctors 6 to 8 weeks prior to the practising certificate expiry date to renew their practising certificate online.

At the time of the initial application for credentialling will check the MCNZ online register to ensure all doctors applying to be credentialed have a current practising certificate.

Will complete processing of applications and issue practising certificates within 20 working days of receipt of the application if no issues.

Will maintain an annual checking process for reviewing the MCNZ online register to check that all credentialed doctors hold a current practising certificate or are considered by the MCNZ to be deemed to hold a current practising certificate pending the MCNZ formally issuing a practising certificate.

Will send the PPSH:

- (a) a list of all doctors known by the MCNZ to be credentialed by that hospital whose practising certificate is due to expire, 2 weeks before expiry and
- (b) a further list of those doctors whose practising certificates have just expired.

**Note:** Once the MCNZ has received an application for a practising certificate from a doctor (which includes fee payment), he/she is deemed to have a practising certificate unless the doctor is notified otherwise by the Registrar.

MCNZ does not backdate a practising certificate if a doctor does not apply before the expiry date.

On request from the PPSH, will provide the PPSH with information about the practitioner's entitlement to practise and any regulatory action – provided there is a lawful basis to do so.

## Competence and conduct

Will notify the PPSH, in relation to credentialled doctors when:

- there is a risk of harm or risk of serious harm arising from a doctor's practice
- there is a suspension or cancellation
- conditions or other limitations/requirements are placed on the doctor's practice including a voluntary undertaking
- the MCNZ decides to order a performance assessment
- the MCNZ decides to refer the doctor to a professional conduct committee
- there is a need to access medical records
- the practising certificate is not renewed (other than for the reason that the doctor has ceased practice);
- the practising certificate is renewed but with different terms or conditions
- health matters arise
- there is any other information held by MCNZ about a doctor that may be relevant to the PPSH's obligation to ensure services at its facilities are provided in a way that is safe and in accordance with acceptable standards.

Will, upon receipt of formal notification of competence and or conduct or other issues, act promptly to inquire into the matter and consider a performance assessment or referral to a professional conduct committee.

Will continue to have a system to exchange information on concerns about doctors' competence and conduct with Health New Zealand, Te Whatu Ora, a private hospital or other providers that may credential a doctor. MCNZ accepts a single provider may not be aware of the other locations where a doctor practises (this is information which is provided by the doctor to MCNZ on the practising certificate renewal form).

Will take responsibility to ensure patients are not at risk while competence and conduct or other concerns are being reviewed by MCNZ.

Will maintain a current credentialling process for assessing and addressing concerns. The PPSH will ensure compliance with statutory requirements.

[N.B. Under section 34(1) of the HPCAA, where a health practitioner has reason to believe that a doctor may pose a risk of harm to the public by practising below the required standard of competence, that health practitioner may give the MCNZ written notice of the reasons on which that belief is based.]

Will maintain a process for managing doctors' performance and behaviour.

Will notify the MCNZ of changes or restrictions placed on a doctor's practice to address the potential risk of harm or other circumstances that meet the statutory threshold for reporting to the MCNZ.

Will notify the MCNZ where there are questions about the appropriateness of the safety or conduct of the practice of the doctor.

## **Management and sharing of information regarding doctors**

Will comply with the HPCAA, particularly sections 35 and 157, to ensure key stakeholders, including the PPSH receive timely notification of decisions concerning a doctor, where those stakeholders have a role, arising from the doctor's practice, in ensuring public health and safety.

Will, where an order or direction is made by MCNZ, concerning a doctor known to be credentialled by the PPSH, publish the order to the CEO of the PPSH.

Will, as far as legally possible, facilitate a process of information sharing where the PPSH does not have information relating to other employers, or organisations or individuals or doctors with whom the doctor practices or employed by or places of work.

Will share information about a doctor with the PPSH where it is appropriate to do so to ensure the provision of safe health services and where it is lawful to do so.

On receipt of any order or notice, will confirm receipt to the MCNZ.

Will, on receipt of any order or notice about a credentialled doctor, consider whether any action is required, within its policies and agreements with credentialled doctors to ensure that risk to public safety is minimised arising from the practice of that doctor.

Will work with the MCNZ (and other parties, including MOH and HDC) where there is an agreed multi-agency response to identified public safety issues arising from a doctor's practice to support the process and share information as far as is legally permissible.

Will share information about a doctor with the MCNZ where it is appropriate to do so to ensure the provision of safe health services and where it is lawful to do so.

## Health

Will, if there is a reason to believe a doctor is not fit to practise because of a mental or physical condition, notify the PPSH's CEO or nominee where there is:

- a risk of harm or risk of serious harm arising from the doctor's practice
- a suspension;
- one or more conditions or other limitations placed on the doctor's practice;
- a health agreement with the doctor;
- any significant monitoring requirements that have been established by the MCNZ
- any other information held by the MCNZ about a doctor's health that may be relevant to the PPSH's obligation to ensure services at its facilities are provided in a way that is safe and in accordance with acceptable standards, where it is lawful to do so.

Will ensure assessments are completed to ascertain if a doctor is fit to practise.

Will, where the MCNZ agrees on a voluntary agreement with a doctor to protect public health and safety, while also maintaining the doctor in safe practice, ensure the PPSH is aware of any relevant health issues requiring management including:

- chronic deteriorating conditions
- situations where there may be substance abuse
- risk of misuse of medication and associated supplies.

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

Those functions would include:

- the ability to make safe judgements
- the ability to demonstrate the level of skill and knowledge required for safe practice
- behaving appropriately
- not risking infecting patients with whom the doctor comes in contact
- not acting in ways that impact adversely on patient safety.

Where a PPSH is aware a doctor has a physical or mental health condition that may impair the doctor's performance or behaviour, and where the credentialled status may be deemed to have lapsed, be modified, suspended or terminated, the PPSH will (a) recommend self-disclosure to the MCNZ and (b) will comply with legislative requirements.

Where a doctor advises the PPSH management of a personal health issue or disability that may affect the doctor's ability or capacity to practise, the PPSH will (a) recommend self-disclosure to MCNZ and (b) will comply with legislative requirements.

Where the MCNZ has ordered, or obtained the doctor's agreement to, monitoring of health concerns in the workplace, including any random testing, the PPSH will take reasonable steps to support it.

For the purpose of this MOU:

**Credentialling and Defining Scope of practice**

“Credentialling”, is a formal process used to verify the qualifications, experience, professional standing and other relevant professional attributes of medical specialists, for the purpose of forming a view about a practitioner’s competence, performance and professional suitability to provide safe, high-quality healthcare services.

“Approved Area of Practice”, defines the extent of a doctor’s permitted clinical practice at a particular Hospital, based on the doctor’s qualifications, competence, performance, and professional suitability. The Approved Area of Practice is hospital-specific and takes into account the capability of that Hospital to support the medical specialist’s Approved Area of Practice.

**Risk of harm and Risk of serious harm****Risk of harm may be indicated by:**

- a pattern of practice over a period of time that suggests the doctor’s practice of medicine may not meet the required standard of competence; or
- a single incident that demonstrates a significant departure from accepted standards of medical practice; or
- recognised poor performance where local interventions have failed – this does not exclude notification of serious concerns where internal review or audit is inaccessible or unavailable to the person with the concern; or criminal offending; or
- professional isolation with declining standards that becomes apparent.

**Risk of serious harm may be indicated where:**

- an individual patient may be seriously harmed by the doctor; or
  - the doctor may pose a continued threat to more than one patient and as such the harm is collectively considered ‘serious’; or
  - there is sufficient evidence to suggest that alleged criminal offending is of such a nature that the doctor poses a risk of harm to one or more members of the public.
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### Appendix 3      Participating Private Surgical Hospital Profile Details

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| <b>Legal Name of PPSH:</b>                       |  |
|  |  |
| <b>Postal Address:</b>                           |  |
|  |  |
|  |  |
| <b>Facility Description:</b>                     |  |
|  |  |
|  |  |
| <b>Chief Executive Officer /General Manager:</b> |  |
| <b>Phone and email details:</b>                  |  |
|  |  |

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Position:** \_\_\_\_\_