

CLINICIAN PERFORMANCE SUPPORT SERVICE QUALITY ASSURANCE COMMITTEE

TERMS OF REFERENCE

1. NAME OF COMMITTEE

- 1.1 Clinician Performance Support Service (CliPSS) Quality Assurance Committee (The Committee).

2. PURPOSE OF COMMITTEE

- 2.1 The Committee will oversee the operation of the Queensland Health Clinician Performance Support Service (CliPSS).
- 2.2 The Committee's processes are designed to assist Queensland Health managers in managing the performance of a clinician (employees, Visiting Medical Officers and other Queensland Health credentialed medical officers) where concerns about professional performance have been identified.
- 2.3 The Committee's processes are very specifically non-disciplinary. CliPSS works within a patient safety and professional improvement framework. It utilises a non-punitive, voluntary and holistic assessment and performance support process to assist in targeted professional development of clinicians who are the subject of performance concerns.
- 2.4 The Committee also serves to enhance patient safety by ensuring that where performance or impairment issues are identified that present a risk to patient safety, the relevant authorities are informed. Such issues could be either systemic or individual.

3. FUNCTIONS OF THE CliPSS QUALITY ASSURANCE COMMITTEE

- 3.1 To provide advice to the Chairperson of The Committee about implementation of formal performance assessment processes which are supportive and non-punitive.
- 3.2 To provide information to managers about individual clinician performance that is sufficient to support decisions about safety and quality of healthcare services.
- 3.3 To ensure timely identification of unsatisfactory professional conduct.
- 3.4 To provide an alternative pathway for clinician performance matters where there are no concerns about potentially 'blameworthy acts' as defined in s380 *Health Services Act 1991* or part (a) 'public risk notifiable conduct' as defined in s2 *Health Services Act 1991*.^{1 2}
- 3.5 To report and make recommendations regarding clinician performance trends based upon quality assurance data.
- 3.6 To monitor the effect of recommendations on clinician performance and the quality of patient care within the Queensland Health public hospital system.

¹ s380 *Health Services Act 1991*

² s2 *Health Services Act 1991*

Public risk notifiable conduct, for a registered health practitioner, means the practitioner has:

- a) Placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or
- b) Placed the public at risk of substantial harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.

- 3.7 To work collaboratively with relevant regulatory authorities to assist them in discharging their statutory functions. Examples of relevant regulatory authorities include the Medical Board of Australia, the Health Quality and Complaints Commission (HQCC) and the Office of the State Coroner.

4. SCOPE OF THE ClPSS QUALITY ASSURANCE COMMITTEE

- 4.1 Members of the Queensland Health senior executive service with employed credentialed medical practitioners/officers may refer professional performance issues concerning the following categories of medical officers to The Committee:-
- Queensland Health medical officers to whom the Credentiaing and Defining the Scope of Clinical Practice for Medical Practitioners in Queensland Policy applies and who hold general or specialist registration with the Medical Board of Australia; or
 - Queensland Health medical officers registered under s67 'area of need' of the Health Practitioner Regulation National Law Act 2009 who have gained registration through either the standard, competent authority or specialist pathway.³
- 4.2 Regulatory and investigative authorities such as, but not limited to, the Australian Health Practitioners Regulation Agency, the HQCC and the Coroner, may refer professional performance issues to The Committee, where these authorities have been notified of serious performance concerns, for the categories of medical officers listed in 4.1.
- 4.3 Following consideration of preliminary review undertaken by a Health Service District, or should the matter *prima facie* require comprehensive performance assessment, The Committee (or the Chairperson) may offer ClPSS to the practitioner. Following consent of the practitioner, The Committee may commission comprehensive performance assessment.
- 4.4 The Committee must not commence a performance assessment or must immediately cease a performance assessment if, in the opinion of The Committee, a matter arises in respect of any of the following:
- 4.4.1 A potentially '*blameworthy act*' as defined in s38O of the *Health Services Act 1991* to be any of the following:
- (a) an intentionally unsafe act;
 - (b) deliberate patient abuse;
 - (c) conduct that constitutes a criminal offence.⁴
- 4.4.2 Potential part (a) 'public risk notifiable conduct' under s2 *Health Services Act 1991*⁵
- 4.4.3 Potential *Official Misconduct*⁶

³ s67 *Health Practitioner Regulation National Law Act 2009*

⁴ s38O *Health Services Act 1991*

⁵ s2 *Health Services Act 1991*

⁶ HR Policy E9 *Requirements for Reporting Official Misconduct*

- 4.5 Should The Committee become aware of a matter mentioned at 4.3.1 or 4.3.2 or 4.3.3, the Committee will notify the referring party and/or the appropriate regulatory authority.
- 4.6 After receiving the final assessment report, The Committee may then decide one or several of the following:
- 4.6.1 To recommend that no further action is required;
 - 4.6.2 To develop and implement a performance review plan collaboratively with the clinician and their employ;
 - 4.6.3 To refer a matter to a relevant regulatory authority;
 - 4.6.4 To refer the matter back to the referring party with a recommendation for management according to Queensland Health policy and procedure;
 - 4.6.5 To refer a matter for any other action as considered appropriate to maintain the safety and quality of the health services.

5. NOTIFICATION AND REPORTING

- 5.1 The Committee operates under the provisions of ss31 to 38 of the *Health Services Act 1991*, which confer qualified privilege and confidentiality obligations. Some external notifications are consistent with the functions of the Committee:⁷
- 5.1.1 The Medical Board of Australia will receive the following information:
- a. Notification that a named practitioner has agreed to participate in a CliPSS process
 - b. The outcome of a completed assessment, including:
 - o Identified strengths
 - o Identified areas where support is needed
 - o Which elements of assessment were completed
 - o Which elements of assessment were not completed
 - o Whether the practitioner has agreed to participate in a support plan, if recommended
 - o CliPSS recommendations regarding changes to scope of practice
 - c. The outcome of an incomplete assessment. This will include notification of the following:
 - o Which elements of assessment were not completed
 - o Which elements of assessment were completed
 - o Identified strengths on the basis of what was completed
 - o Identified areas where support is needed on the basis of what was completed
 - o Reasons that the assessment was ceased
 - o CliPSS recommendations regarding changes to scope of practice
 - d. If a support plan is ceased (either at the practitioner's request, or because CliPSS decided it should cease), and the reason that it was ceased.
 - e. If CliPSS finds that a matter meets the threshold for 'public risk notifiable conduct' s2 *Health Services Act 1991*⁸

⁷ ss31 to 38 of the *Health Services Act 1991*

⁸ s2 *Health Services Act 1991*

- f. The mandatory requirement to notify exists to a member of The Committee under s33 part (1) (b) “if the person is a registered health practitioner – notifying the National Agency about information in relation to a reasonable belief of the person that another registered health practitioner has behaved in a way that constitutes public risk notifiable conduct’.⁹
 - g. A mandatory disclosure obligation will not apply to ‘excluded notifiable conduct’ s2 *Health Services Act 1991*.¹⁰
- 5.1.2 Where a regulatory authority (for example, the HQCC) refers a matter to The Committee for consideration of a Performance Assessment, the referring authority will receive the following information:
- a. Notification that the practitioner has agreed to participate in a CliPSS process
 - b. The outcome of a completed assessment, including
 - o Identified strengths
 - o Identified areas where support is needed
 - o Whether the practitioner has agreed to participate in a support plan, if recommended.
 - o CliPSS recommendations regarding changes to scope of practice
 - c. The outcome of an incomplete assessment. This will include notification of the following:
 - o Which elements of assessment were not completed
 - o Identified strengths on the basis of what was completed
 - o Identified areas where support is needed on the basis of what was completed.
 - o Reasons that the assessment was ceased.
 - d. If a support plan is ceased (either at the practitioner’s request, or because The Committee decided it should cease), and the reason that it was ceased.
- 5.1.3 Where it is otherwise relevant to their statutory functions, regulatory authorities will be notified of summary findings and recommendations of the performance assessment;
- 5.1.4 Queensland Police Service will be notified if, during the course of the performance assessment or performance support, any matter comes to the attention of The Committee which the Committee reasonably believes may amount to a criminal offence;
- 5.1.5 The Coroner will be notified if, during the course of the assessment or performance support, a ‘reportable death’ is noted and believed to have not been previously reported;

⁹ s33 *Health Services Act 1991*

¹⁰ s2 *Health Services Act 1991*

Excluded notifiable conduct, for a registered health practitioner, means the practitioner has:

- a) Practised the practitioner’s profession while intoxicated by alcohol or drugs; or
- b) Practised the practitioner’s profession in away that constitutes a significant departure from accepted professional standards but not in a way that placed the public at risk of substantial harm; or
- c) Engaged in sexual misconduct in connection with the practise of the practitioner’s profession.

- 5.1.6 The referring party or their delegate will always receive the following information:
- a. The findings and recommendations of any Rapid Review commissioned by The Committee or the Chairperson of The Committee.
 - b. The Summary Report of a completed assessment, including:
 - o Identified strengths
 - o Details of areas where support is needed and recommended implementation strategies
 - o Which elements of assessment were completed
 - o Which elements of assessment were not completed
 - o Whether the practitioner has agreed to participate in a support plan, if recommended
 - o CliPSS recommendations regarding changes to scope of practice
 - c. The Summary Report of an incomplete assessment:
 - o Which elements of assessment were not completed
 - o Which elements of assessment were completed
 - o Details of areas where support is needed and recommended implementation strategies
 - o Reasons that the assessment was ceased
 - o CliPSS recommendations regarding changes to scope of practice
 - d. If a support plan is ceased (either at the practitioner's request, or because The Committee decided it should cease), and the reason that it was ceased.
 - e. If any matter which is *prima facie* blameworthy becomes known to the Assessors or CliPSS staff. (The employer will then determine if the matter requires referral to the Ethical Standards Unit or the Police).
 - f. If a '*reportable death*' is noted and is believed to have not been reported previously.
 - g. If a significant adverse event (eg SAC 1) is identified during the course of assessment or support process (eg during the chart review), and it has not been previously reported in accordance with the Clinical Incident Management Implementation Standard. CliPSS will continue its assessment, unless a blameworthy matter is found.
- 5.1.7 The Practitioner's treating doctor will be notified if CliPSS becomes aware the practitioner is unwell to the extent that they present a risk to themselves or others - for example severe depression with suicidal ideation.
- 5.1.8 The Committee will collect, monitor and evaluate continuous quality assurance data regarding Queensland Health employed clinician performance.
- 5.1.9 The Committee will provide Patient Safety and Quality Improvement Service with annual de-identified quality assurance performance data which may then be provided to other entities such as: Queensland Health, Medical Board of Australia and Health Quality Complaints Commission.
- 5.1.10 The Committee will provide Queensland Health with reports of any serious system issues regarding clinician performance issues subject to the qualified privilege of the CliPSS Quality Assurance Committee.

- 5.2 The Committee must provide a public report every three years through Queensland Health based on aggregated de-identified quality assurance performance data.
- 5.3 The CliPSS Quality Assurance Committee will provide specialist colleges with a report of relevant matters concerning clinician performance issues to be addressed at a collegiate level subject to the qualified privilege of the CliPSS Quality Assurance Committee.

6. OBJECTION AND APPEAL

- 6.1 A clinician who is the subject of a performance assessment by CliPSS may raise objection regarding an actual or potential conflict of interest with their case manager at any time. If resolution of the objection cannot be negotiated between the parties within a reasonable time, the CliPSS Quality Assurance Committee may recommend the assessment be ceased and the matter be referred back to the referring party for management through processes other than those offered by CliPSS.
- 6.2 A clinician may at any time elect to have the CliPSS Quality Assurance Committee process cease and have the matter dealt with by the employer.

7. MEMBERSHIP ELIGIBILITY CRITERIA

- 7.1 Membership of The Committee must include at least the following:
 - 7.1.1 Medical Director, Patient Safety and Quality Improvement Service, who will be a registered medical practitioner (who will also act as Chairperson of The Committee);
 - 7.1.2 Assistant Director, Clinician Performance Team;
 - 7.1.3 One registered medical practitioner nominated by the Australian Medical Association (Queensland Branch);
 - 7.1.4 One registered medical practitioner nominated by the Salaried Doctors Queensland;
 - 7.1.5 One registered medical practitioner nominated by the Queensland Public Sector Union;
 - 7.1.6 One consumer representative, who must not be a medical practitioner, endorsed by community networks.
 - 7.1.7 One community representative, who must not be a medical practitioner, endorsed by community networks.
 - 7.1.8 One senior nurse nominated by the Chief Nursing Officer who will hold current registration with the Nursing and Midwifery Board of Australia;
 - 7.1.9 One senior human resource practitioner nominated by the Deputy Director-General of Corporate Services;
 - 7.1.10 One Chief Executive Officer nominated by the Director General;
 - 7.1.11 One Executive Director of Medical Services nominated by Directors of Medical Services Advisory Committee.

8. TERM

- 8.1 Each member of the committee will be appointed for an initial term of one year, or shorter if circumstances dictate.

9. PRIVACY AND CONFIDENTIALITY

- 9.1 The Committee will function in accordance with Division 3 of the *Health Services Regulation 2002* which requires the adoption of a privacy policy.¹¹
- 9.2 As an approved quality assurance committee pursuant to s31 of the *Health Services Act 1991*, The Committee is prohibited from furnishing a report or making information available that discloses the identity of the clinician who has participated in the CliPSS process without their written consent.
- 9.3 Members of The Committee and relevant persons are prohibited from making a record of, divulging or communicating to any other person, information they obtained in the course of their involvement in The Committee activities, unless this was done for the sole purpose of enabling The Committee to perform its functions.
- 9.4 Members of The Committee and relevant persons cannot be legally required, whether by a provision of an Act or by an order of the Court to produce any documentation that was created during the course of the performance assessment.¹² This means that any information obtained including the performance assessment report furnished to The Committee is not compellable at law and cannot be used in any proceedings before a Court.

10. PERIODIC COMMITTEE EVALUATION

- 10.1 The Committee will periodically (not less than on an annual basis) evaluate its effectiveness in meeting The Committee's identified purpose and functions (e.g. timeliness of decision-making, attendance at meetings, and number of meetings).

11. MEETING PROTOCOLS

- 11.1 The Committee will be chaired by the Medical Director, Patient Safety and Quality Improvement Service. The Chairperson will determine the time and place for ordinary meetings.
- 11.2 A Chairperson is to preside at all meetings. The Chairperson may delegate the Chair to another committee member.
- 11.3 The following quorum requirements apply:
- 11.3.1 Where there is an odd number of members of the CliPSS Quality Assurance Committee, the quorum is a majority of the members;
- 11.3.2 Where there is an even number of members of the CliPSS Quality Assurance Committee, the quorum is one half of the number of members, plus one.
- 11.4 Urgent matters may be determined by flying minute out-of-session, requiring affirmation by a number of members equal to or greater than a quorum. The decision is evidenced by signature to the flying minute, and does not take effect until the requisite signatures are recorded (in original or facsimile).

¹¹ Division 3 of the *Health Services Regulation 2002*

¹² s34 *Health Services Act 1991*

- 11.5 Where practicable, the agenda together with reports and related documents will be forwarded to members in sufficient time to enable consideration prior to meetings.
- 11.6 Accurate minutes will be kept of each meeting of The Committee. The minutes of meetings are to be submitted to committee members for ratification at the next subsequent meeting of The Committee. When confirmed, the minutes shall be signed by the Chair and will be taken as evidence of the meeting. Minutes will be stored for at least 10 years.
- 11.7 Decisions shall be on a simple majority voting basis and only by those in attendance at the meeting. There shall be no proxy vote.
- 11.8 A meeting may be conducted wholly or partially by electronic means, whereby some or all participants can be heard and can hear, but are not necessarily in the same location. All other requirements of these Terms of Reference apply to the meeting.
- 11.9 Any dispute or difference which may arise as to meaning or interpretation of these Terms of Reference and as to the conduct of a meeting shall be determined by the Chairperson.

12. TERMINATION OF MEMBERSHIP

- 12.1 The Committee may terminate the membership of a member if they are no longer eligible for the position to which they were nominated. (eg no longer registered as a medical practitioner).
- 12.2 The Committee may, by three quarters majority, determine that a member is no longer a member of the Committee.
- 12.3 Circumstances where this would occur include, but are not limited to, persistent non-attendance without reasonable excuse (3 consecutive meetings). The committee will formally discuss and recommend actions regarding termination of committee members. Decisions will be by three quarters majority of committee members.
- 12.4 The Chairperson of The Committee, on behalf of The Committee, will write to the member to
 - 12.4.1 Confirm termination of membership
 - 12.4.2 Advise that any information obtained in the course of involvement in The Committee will continue to be protected under the privacy and confidentiality provisions outlined in the Terms of Reference.
 - 12.4.3 Request that the member destroy or return all documents in their possession (hard copy and electronic) that were received in their capacity as a member.

13. RELEVANT PERSONS

- 13.1 The CiPPS Quality Assurance Committee may authorise certain persons to receive information to enable the committee to perform its function.
- 13.2 The Secretariat of The Committee will maintain a register of relevant persons containing the following information-
 - 13.2.1 the individual's full name and qualifications;
 - 13.2.2 the individual's office or position;

- 13.2.3 the date the individual was authorised as a relevant person; and
- 13.2.4 the date the individual was terminated as a relevant person.
- 13.3 The Committee will be notified of circumstances where eligibility as a relevant person no longer applies.
- 13.1 The Chairperson of The Committee, on behalf of The Committee, will write to the relevant person to:
 - 13.1.1 Confirm termination as a relevant person
 - 13.1.2 Advise that any information obtained in the course of involvement in the Committee will continue to be protected under the privacy and confidentiality provisions outlined in the Terms of Reference.
 - 13.1.3 Request that the relevant person destroy or return all documents in their possession (hard copy and electronic) that were received in their capacity as a relevant person.

14. SPECIFIED INFORMATION TO BE GIVEN TO THE EXECUTIVE DIRECTOR PATIENT SAFETY AND QUALITY IMPROVEMENT SERVICE.

- 14.1 The Committee must, as soon as practicable after an individual becomes, or ceases to be, a member of The Committee, give the Executive Director a written notice containing the following information—
 - 14.1.1 When an individual becomes a member—
 - 14.1.2 the individual's full name and qualifications; and
 - 14.1.3 the individual's office or position; and
 - 14.1.4 a summary of the individual's experience that is relevant to the committee's functions; and
 - 14.1.5 the date the individual became a member;
 - 14.2 When an individual ceases to be a member—
 - 14.2.1 the individual's full name; and
 - 14.2.2 the date the individual ceased to be a member.

15. MODIFICATION OF TERMS OF REFERENCE

- 15.1 From time to time, the Terms of Reference may be modified by The Committee.
- 15.2 Unless otherwise specified by The Committee, changes take effect from the time of resolution by The Committee and apply to clinicians currently undertaking the CliPSS program.
- 15.3 Notification of changes to the Name, Terms of Reference or Membership of the CliPSS Quality Assurance Committee must be submitted to:

Executive Director
 Patient Safety and Quality Improvement Service
 Level 14, Block 7, RBWH, HERSTON QLD 4029