



## ***Medical Council of New Zealand***

# **Responsibilities of doctors in management and governance**

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### ***Introduction***

1. This guidance has been prepared in the light of recent cases in New Zealand and overseas. The intention is to clarify the standards that doctors are expected to meet when they undertake tasks in management.
2. The guidance starts from the premise that the principal concern of everyone involved in the delivery of health services is the health and safety of patients.
3. The Medical Council of New Zealand (Council) supports the involvement of medical practitioners in the management of health services, in all forms of clinical leadership, and in the professional bodies that set standards of practice.

### **Responsibilities of medical managers**

4. In today's environment, doctors have many roles and responsibilities. When they act as managers, doctors have a duty towards patients, to the wider community, the organisation in which they work, and their colleagues. However, their first consideration must continue to be the interests and safety of patients regardless of their managerial responsibilities.<sup>1</sup>
5. As resources are limited all doctors have a duty to participate in discussions and decisions about the allocation of these resources.
6. Doctors should take care before giving medical advice outside their own clinical area or expertise.
7. Doctors must also be clear about their own role in relation to priorities set by Government and their employing or funding body. Evidence from research and audit should be used to make the optimum use of the resources available.
8. Conflicts may arise when doctors are called upon to make decisions when the needs of an individual patient and the needs of a population of patients vary.

### **Protecting patients safety**

9. If a doctor in management has concerns that a decision made by his or her employer puts patient safety at risk the doctor should be aware of the avenues for appeal and consider which action is best.
10. If, while serving as Board members, doctors are concerned that a decision made by the Board would put patients at risk of serious harm, they must make their objections known in accordance with the Protected Disclosures Act 2000. The Board member must adhere to internal procedures for reporting information about serious wrongdoing and should ensure

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<sup>1</sup> Refer to the 24 March 1999 Privy Council decision regarding Dr Roylance.

his or her objections are recorded by the Board. If this does not result in a satisfactory outcome within reasonable time a Board member has the options of raising the matter with the Director General of Health, or the Health and Disability Commissioner, or the Council. The Board member may also wish to consider resigning from the position.

11. Board members may consider making their concerns public if the above options are unsuccessful and as a last resort. However, the Council recommends the Board member consult a defence body or professional association before making this decision. The Council recommends that all doctors have professional indemnity insurance.

### **Accountability for management decisions**

12. Doctors who serve on District Health Boards (DHB), advisory committees, or Boards of primary care groups remain accountable to the Council for their professional conduct if they are appointed to the position as medical practitioners.

### **Dealing with colleagues - the role of medical managers**

13. Doctors with responsibilities for managing colleagues must be prepared to discuss constructively and sympathetically any problems faced by colleagues in their professional practice and development. The Council can help when issues involve competence or disability. There is a mandatory requirement to report to the Registrar if a medical practitioner is not able to perform the functions required to practise medicine because of a mental or physical condition.<sup>2</sup>
14. They have a responsibility to ensure that mechanisms for raising and dealing with concerns about the organisation and about individuals are in place, publicised to all staff and that management seriously considers any resultant reports.
15. If a concern has been raised by a doctor about the competence of a colleague, effort must be made to protect the reporting doctor from harmful criticisms or actions while ensuring that there is no vexatious motivation.
16. If there are grounds for concern and patient care is being compromised action must be taken to protect patients.<sup>3</sup>

### **Standards of practice**

17. Doctors who work in management should review their own performance and participate in professional development and relevant educational activities.

### **Doctors must always be prepared to explain and justify their decisions.**

*Revised 13 June 2001*

*Updated September 2004 for Health Practitioners Competence Assurance Act 2003*

*Reformatted November 2004*

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<sup>2</sup> Section 45, Health Practitioners Competence Assurance Act 2003

<sup>3</sup> Doctors should follow the guidance of the Council and Health Practitioners Competence Assurance Act 2003 if they have good reason to believe a colleague's conduct, performance or health may be putting patients at risk.

### ***Appendix 1 – Definition of the ‘practice of medicine’***

The Council definition of the practice of medicine is:

- Advertising, holding out to the public, or representing in any manner that one is authorised to practise medicine in New Zealand,
- Signing any medical certificate required for statutory purposes such as death and cremation certificates,
- Prescribing medicines, the sale or supply of which is restricted by law to prescription by medical practitioners,
- Assessing, diagnosing, treating, reporting or giving advice in a medical capacity, using the knowledge, skills, attitudes and competence initially attained for the MBChB degree (or equivalent) and built upon in postgraduate and continuing medical education, wherever there could be an issue of public safety.

### ***Appendix 2 – Case law***

Two cases in New Zealand that provide examples are:

- MCNZ vs Faris, 1994.
- MCNZ vs Cullen, 1992.