

Short title: Assessing peer performance BP

1. Background

Performance of anaesthetists or specialist pain medicine physicians may on occasions be the subject of concern either as a result of perceived clinical underperformance or concerns related to professionalism and behaviour. Such concerns form the basis of complaints to either administrators of healthcare institutions or to regulatory authorities such as Australian Health Practitioner Regulatory Authority (AHPRA) in Australia and in New Zealand to the Medical Council of New Zealand (MCNZ).

Where a healthcare institution has concerns that do not fall under mandatory reporting the administration may choose to review the practice of the practitioner in question prior to any decision as to escalation or actions to be taken. A request for review of the practitioner may consequently be sent to ANZCA.

Similarly, a regulatory authority in the process of responding to a concern or investigating a complaint may approach ANZCA for assistance in reviewing the performance of the practitioner.

In response, the college will submit a list of fellows competent to undertake the review from which the healthcare institution or the regulatory authority may select as they see fit. Fellows who perform reviews under these circumstances do not act as agents for ANZCA nor are they acting on behalf of the college. They work independently in their own capacity. While fellows acting as Specialist International Medical Graduate (SIMG) workplace-based assessment (WBA) assessors may have experience in reviewing the performance of a peer, other fellows may have limited experience. Consequently, the accompanying guideline has been developed to assist fellows in performing a review that is rigorous, and defensible, as well as ensuring that the process is uniform and produces reliable and consistent conclusions.

2. Terms used

ANZCA or **college** applies to both specialist anaesthetists and specialist pain medicine physicians.

Performance assessment in the accompanying guideline refers to a process that evaluates performance against professional standards.

3. Purpose

The specific intent of the accompanying guideline is to facilitate the reliability and consistency of performance assessment reviews by following the processes contained within the guideline. As such, the aim is to guide and assist fellows in the process.

4. Specific intent of guideline

In developing the accompanying guideline, the overarching intent was defined as stated in the purpose statement above, followed by defining the scope. Regulation 27 underpins the guideline, and the recommendations contained within the accompanying professional document serve to supplement the regulation.

PG65(G) is specifically intended to assist with the performance assessment process. Guidelines for acting as an expert witness is beyond the scope of this document. Information on the role and codes of conduct for expert witnesses is specific to states and countries of practice. For assistance the links below are provided¹.

5. Faculty of Pain Medicine

It was agreed that this professional document may be used to guide review of specialist pain medicine physicians as well as specialist anaesthetists, which led to the expansion of the Expert Group to include representation from the Faculty of Pain Medicine of ANZCA (FPM). Where there were standards common to both anaesthesia and to pain medicine they appear in a joint section, however, where standards were specific to one specialty or the other they were identified and assigned accordingly.

6. Stakeholders and community representation

Identification of stakeholders for the consultation phase was also considered since this was regarded as a critical contribution to the process of guideline development. Involvement of a community representative in the Expert Group was discussed as well as inclusion in the early stages of stakeholder consultation and feedback.

7. Access to relevant medical documents

Underperformance has been said to be an indicator of underlying causative factors including addiction, burnout, depression, or other health issues.

Where relevant, the assessor(s) may seek information with regard to the health status of the practitioner being assessed. However, the granting of access will be decided by the requesting authority if they deem the information relevant, and its release appropriate and with the prior knowledge of the practitioner.

8. Toolkits

The subject of developing and providing toolkits was discussed and whether these should be freely available or whether access to them should be limited to assessors. On the one hand there was concern that if these were freely available then practitioners could become conversant with expectations and prepare their responses to satisfy the criteria. This was countered by the desired transparency of the process, and the concern that withholding them would detract from such perceived transparency.

It was decided that toolkits should be included as appendixes to the guideline so that they may be updated or modified according to need, without having to review the entire professional document.

The first toolkits considered included:

- Clinical Observation of Practice – Appendix 1
- Multisource Feedback Worksheet – Appendix 2
- Report Template – Appendix 3

It was recognised that the toolkit in Appendix 1 may not be applicable to non-interventional specialist pain medicine physicians and that FPM may in the future wish to develop a separate toolkit specific to their needs.

¹ Federal Court of Australia Evidence Act 1995. Available at: <https://www.fedcourt.gov.au/law-and-practice/guides/expert-evidence>
Code of Conduct Expert Witness NZ. Available at: <https://legislation.govt.nz/act/public/1908/0089/40.0/DLM1817947.html>
Code of Conduct Expert Witness Australian States. Available at: <https://www.fedcourt.gov.au/law-and-practice/guides/expert-evidence>
Above links accessed 5 June 2024.

9. Legal advice

As performance assessors act independent of ANZCA they are not indemnified by the college insurers. As part of the preparatory process assessors are strongly advised to obtain documentation indemnifying them against action from both the requesting authority and from the practitioner being assessed.

There was discussion around obtaining legal opinion prior to submission of the assessor's written report to the requesting authority, and the matter of potential conflict of interest was raised. Where the practitioner whose performance is being assessed is indemnified by the same insurer as the assessor then this could pose a potential conflict of interest, and an alternative source of opinion may be prudent.

Also, considered was ANZCA's responsibilities and risks in developing this guideline and what if any legal opinion the college should seek in this regard. ANZCA has a process for addressing such matters where a risk is identified.

10. Consultation phase

Feedback during the consultation phase was received from fellows, anaesthesia societies, and regulatory authorities. The guideline was amended to ensure that there was compatibility with jurisdictional regulations and processes when fellows are acting on behalf of the regulators.

Recognising that there may be differences in governance, relationships with administrators, and patient expectations between the public and private sector, the accompanying guideline was developed to accommodate both settings.

There was support for the suggestion that reviewers should receive training, however, this has not been included at this stage. In future revisions, consideration may be given to developing a relevant training framework for providers.

11. Summary

The guideline in the accompanying professional document have been developed in response to a need by regulatory and jurisdictional authorities to acquire meaningful and accurate assessments of specialists whose clinical performance may be of concern. As the recognised specialist college responsible for anaesthesia and pain medicine, ANZCA is approached for this purpose. The college provides the authorities with a list of nominees who then act independently of the college. The guideline aims to serve as a process assisting fellows to ensure that assessments are rigorous, accurate, and consistent.

Professional documents of the Australian and New Zealand College of Anaesthetists (ANZCA) are intended to apply wherever anaesthesia is administered and perioperative medicine practised within Australia and New Zealand. It is the responsibility of each practitioner to have express regard to the particular circumstances of each case, and the application of these ANZCA documents in each case. It is recognised that there may be exceptional situations (for example, some emergencies) in which the interests of patients override the requirement for compliance with some or all of these ANZCA documents. Each document is prepared in the context of the entire body of the College's professional documents, and should be interpreted in this way.

ANZCA professional documents are reviewed from time to time, and it is the responsibility of each practitioner to ensure that he or she has obtained the current version which is available from the College website (www.anzca.edu.au). The professional documents have been prepared having regard to the information available at the time of their preparation, and practitioners should therefore take into account any information that may have been published or has become available subsequently.

While ANZCA endeavours to ensure that its professional documents are as current as possible at the time of their preparation, it takes no responsibility for matters arising from changed circumstances or information or material which may have become available subsequently.

Promulgated: August 2018
Reviewed:
Current document: February 2020
Links reviewed: June 2024

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