

Fitness to Practise

Contents

1. Code of Practise for Fitness to Practise policy.....	1
1.1. Goal of policy and processes	1
1.2. Policy and its scope	1
1.3. Classification of concerns	2
1.4. Process	3
1.5. Fitness to Practise Committee (Medical Programme)	4
1.6. Outcomes of process.....	5
1.7. Right of appeal.....	6
1.8. Advising students of Fitness to Practise policy.....	6
1.9. Processing of a report	6
1.10. Processes for administration of Fitness to Practise issues	7
2. Medical Council of New Zealand	10

1. Code of Practise for Fitness to Practise policy

The Board of Studies approved the original Fitness to Practise policy in December 2004, with small modifications approved in February 2010.

1.1.Goal of policy and processes

The goal of the policy and associated processes is to put in place remedial or support mechanisms that will enable the student to remain in the programme wherever possible, and where the proposed remedial action does not place the public, the student or the University at risk either as a student or following graduation.

This policy is not meant to encompass the minor issues that often arise during the student's natural pathway through the medical programme. In most cases the matter will be resolved at an early stage, with the student's cooperation.

1.2.Policy and its scope

Students who become aware that they are suffering from any medical or personal condition which may threaten their fitness to practise, and which may lead them to having to either discontinue or compromise their programme of study, should seek advice at the earliest opportunity.

There is an organisational responsibility both ethically and legally, for staff who deliver to students on the programme to minimise the risk of harm for students and graduates of the FMHS.

The policy encompasses Fitness to Practise (FtP) concerns in three areas:

Area 1: Health or personal issues

Issues that may affect the student's future ability to practise medicine, including:

- Psychiatric illnesses.
- Physical impairment.
- Transmissible blood-borne viral infections.
- Drug and alcohol issues.

These are likely to:

- affect a student's studies, progression or career pathways
- expose the student, patients or staff members to potential risk
- expose the Faculty or partner organisation to potential risk

Area 2: Professional attitudes

Issues of concern regarding professional attitudes during the programme including:

- Plagiarism
- Poor attendance
- Inappropriate behaviour
- Contravention of significant aspects of policy, e.g. sensitive examinations

Area 3: Issues external to the programme

Issues regarding the actions of students occurring outside the programme, cover aspects such as:

- any offence which is potentially punishable by more than three months in jail (drink-driving conviction, drug conviction)

1.3. Classification of concerns

Concerns are classified into three groups, according to the following features.

1. Non-critical

–An issue that raises concerns about future fitness to practise, that would best be dealt with through support and counselling.

–Examples would include poor attendance, some inappropriate behaviour, and minor self-limited illness.

2. Critical

–Issues that raise much more significant concerns in regards to future fitness to practise issues or career options.

– Three repeated non-critical concerns escalate to this category.

–Examples would include dishonesty, serious health issues (persistent or severe), significant contravention of a policy, drug and alcohol abuse.

3. Extraordinarily critical

–An unpredicted event giving rise to the need for immediate action because of the likelihood of significant harm, either involving a student, or resulting from the action of a student.

The Head of School of Medicine (HOSM) should be notified immediately of any such extraordinarily critical incident. If there are implications for the safety of patients, staff, or students, the HOSM has delegated authority to temporarily suspend the student or place limits on the continuation of his/her study and/or clinical attachment.

1.4.Process

Referral process

The process will be commenced and actioned through different pathways according to which of the three areas is in the frame.

- It is anticipated that most referrals will come from a Phase Director, Directors of Medical Student Affairs or Head of Department, but any academic member of Faculty or honorary teaching staff may refer a student to the process.
- Students may make referrals, but only to the Directors of Medical Student Affairs or a Phase Director.
- Self-referrals are encouraged from students.
- Anonymous referrals to this process will not be considered.

Table 1: Health or personal issues

It is common that students develop such issues during the programme, and most episodes are self-limited. The Directors of Medical Student Affairs provides a confidential avenue of support. This person keeps a confidential record of contacts with students separately from the student academic file. In the situation where the Directors of Medical Student Affairs are aware the students has had persistent or severe episodes that may affect fitness to practise, the Directors of Medical Student Affairs will:

- conduct an exit interview with the student.
- advise the student to notify the Medical Council of New Zealand (MCNZ) voluntarily.
- liaise with the Chair of the Fitness to Practise Committee (FtPC) regarding whether or not the Dean should be advised to notify this student to the MCNZ under Section 45 of the HPCAA.

The Directors of Medical Student Affairs initially determines whether an issue is potentially non-critical or critical, and may take advice from the Chair of the FtPC.

	Non-critical	Critical	Extraordinarily critical
Refer to	Directors of Medical Student Affairs Phase Director or others e.g. Student Health	Directors of Medical Student Affairs	Head of School of Medicine
Action	Devise an agreed action plan with student, ± Phase Director/ Directors of Medical Student Affairs	Devise an agreed action plan with student & Phase Director/ Directors of Medical Student Affairs	Suspension or withdrawal from clinical attachment
Anticipated outcomes	Student may continue with their study	Student may continue with their study or defer. If persistent or severe, an exit interview with Directors of Medical Student Affairs	Decided by FtPC
Report	Notes kept by Directors of Medical Student Affairs on file	Notes kept by Directors of Medical Student Affairs on file. Liaise with Chair of FtPC. May have FtP report held confidentially in student file if academic progress affected.	Report held by HOSM, distributed to FtPC and decision kept on student file permanently

Table 2: Professional attitudes

The Directors of Medical Student Affairs and/or the Phase Director will initially determine whether an issue is potentially non-critical or critical. The Head of the Medical Programme or nominee may be approached for advice.

	Non-critical	Critical	Extraordinarily critical
Refer to	HOD, Phase Director and/or Directors of Medical Student Affairs	Head of Department and/ or Directors of Medical Student Affairs	Head of School of Medicine
Action	Advice and guidance	Investigation of incident	Suspension or withdrawal from clinical attachment
Anticipated Outcomes	Student may continue their study	Formal referral and report to FtPC	Formal referral to FtPC
Report	Kept on student file temporarily	Decision made by FtPC	Report held by HOSM, distributed to Fitness to Practise Committee, and decision kept on student file permanently

Table 3: Non-programme related concerns

Students are required to bring to the attention of the Directors of Medical Student Affairs any issues that may affect their future ability to register as a Doctor with the MCNZ. It is anticipated that this will usually be criminal convictions.

The student will be seen by the Directors of Medical Student Affairs. Once the issue is discussed, the Directors of Medical Student Affairs will provisionally classify it as either non-critical or critical (note that the extraordinarily critical category is unlikely to be needed, as other processes will overtake the Fitness to Practise Committee).

	Non-critical	Critical
Refer to	Directors of Medical Student Affairs	Directors of Medical Student Affairs
Action	Advice and guidance	
Anticipated	Student can continue their study	Formal referral to FtPC
Report	Filed in student record temporarily	Decision confirmed by FtPC

1.5. Fitness to Practise Committee (Medical Programme)

A Fitness to Practise Committee (FtPC) is established as a subcommittee of the Board of Studies (Medical Programme). Although it is a subcommittee, it reports to BOS on matters of policy and process only; it will not give details of outcomes of individual cases. Owing to the small number of cases, this is not a standing committee but is constituted when the need arises.

Terms of reference

- Consider the issues regarding students and make decisions on outcomes;
- Refer individual cases to the University Disciplinary Committee, as appropriate;
- Review the Code of Practise for Fitness to Practise policy and recommend any changes to the Board of Studies;
- Advise the Dean of the Faculty with respect to decisions made about individual students and recommend any students who should be notified to MCNZ.

Membership

The subcommittee will have six members, of whom at least three must be present to consider individual cases. The membership is:

- HOSM or nominee (Chair)
- Chair of Board of Studies (Medical Programme), or his/her nominee
- Senior members of the Schools of Nursing or Pharmacy
- Senior member from the School of Medicine
- Senior member of staff from another Faculty of the University

Notes

1. The committee will use due and fair process when dealing with all fitness to practise issues and students.
2. The relevant Phase Director or the Directors of Medical Student Affairs will be invited to be present during the meeting, be allowed to take part in the process and to provide information to other members. They will not be involved in the decision-making, in view of their earlier involvement in the process.
3. The HOSM or nominee shall inform the student, in writing, that their case has been referred to the FtPC and shall inform the student of the reasons behind the referral.
4. The student will be advised that he or she has the right to make a written submission to the FtPC and to appear before the committee in person, unless a medical adviser has advised that the student's state of health makes this impossible or inadvisable.

In these circumstances a case will not be considered formally until the student is deemed by a medical adviser to be fit to appear before the committee. The student will be given at least one week's notice in writing of the date of the committee meeting and will be advised that he or she may be accompanied by a support person (a fellow student, a member of academic staff or a member of the Student Counselling Service).

1.6. Outcomes of process

The possible outcomes available from the process and/or the committee will vary according to the mechanism of referral.

Area 1: Health or personal issues

The primary goal of the process and /or committee is to provide the student with a plan and support framework that will enable the student to remain within the Faculty and qualify, provided that such an action does not potentially place the public at risk.

Such a plan may involve monitoring, mentoring and counselling and will be agreed between the student and either the Directors of Medical Student Affairs or the Fitness to Practise Committee, depending on whether it is non-critical or critical. The plan is regarded as a condition of remaining within the current programme of study. The guidance issued by the MCNZ will be used as a baseline for evaluating such issues.

Area 2: Professional attitudes raised within the programme

For a non-critical issue, an agreed action plan will be tracked to completion, with appropriate support.

For a critical issue it is envisaged that the student is put on a formal reporting regime, with a clearly defined reporting period during which the issue must be resolved. This may involve a period of leave, after which the student can continue with the programme of study. This is likely to be the usual response of the committee to more than two non-critical attitudinal issues. A written caution will also be given to the student.

For an extraordinarily critical issue, the student will be suspended from the programme, until there is a complete investigation and a decision made by the FtPC. It is anticipated that this will mostly result in temporary suspension or withdrawal, but is possible for continuation to be an option. This situation is anticipated for students who have either a persistent non-critical or critical attitudinal issue. More than one critical attitudinal issue will almost inevitably result in the student being asked to withdraw from the programme.

If a decision is made to recommend withdrawal from the programme, the Chair of the FtPC or their nominee will be responsible for ensuring that the student is given appropriate advice about other options, such as:

- transferring to an alternative programme or
- interrupting his or her studies while receiving appropriate therapy/counselling.

Area 3: Issues external to the programme

The guidelines for the committee will be what would have happened to a practising doctor who was referred to the MCNZ for similar reasons; the committee will have to consider the issue in this light.

For students appearing as a result of a criminal conviction, the committee will not consider matters of guilt. If the student has been convicted then they will be considered to have committed the offence and considered in this light.

The guidance issued by the MCNZ regarding students convicted of an offence against the law will be used as the base line for making decisions in this area.

If the FtPC considers that there are sufficient grounds for judging that the student is unfit for entry to the profession, its first step will be to ensure that the student is given appropriate advice and the opportunity to accept the advice without the need to go through the appeals procedure.

The Chair of the FtPC will notify the Dean, who may ask for further medical advice, and/or advice from the MCNZ.

1.7. Right of appeal

Students will have the right of appeal through the University if the outcome of the Fitness to Practise Committee is that a student is required to restart a year or withdraw from the programme. The appeals process will follow the MBChB Regulations, Section 9.

1.8. Advising students of Fitness to Practise policy

Students will be provided with a copy of the policy document and asked to declare their acceptance to study within its framework at the commencement of their studies within the medical programme.

1.9. Processing of a report

On receipt of a FtP report, the process is as follows:

1. First report of non-critical issue and discussion with HOD, the Directors of Medical Student Affairs or Phase Director or Head of the Medical Programme and student.
 - file report in student record, except in the case of illness where the Directors of Medical Student Affairs will maintain confidential notes.

If this is the only issue arising during the course of study then it will be removed from the file prior to graduation and no mention will be made in reports to professional bodies.

2. Second report of non-critical issue, or a first issue that is not resolved after attempt at

resolution through the Directors of Medical Student Affairs for issues related to physical or mental health, or for academic matters, the relevant Phase Director or Head of the Medical Programme

→ file report

the Directors of Medical Student Affairs will maintain confidential notes.

If issues of support/counselling are raised then an appropriate plan will be agreed with the student. A written report of this meeting will be filed on the student's record. If no further issues arise during the course of study then it will be removed from the file prior to graduation and no mention will be made in reports to professional bodies.

If an agreed resolution of the issues cannot be achieved at this stage a formal referral to the FtPC will be made. The Directors of Medical Student Affairs or Phase Director are free to seek advice (in confidence) from any avenue they deem appropriate in dealing with these issues. The Report is filed in the student's record.

3. Third report of non-critical issue leads to formal investigation by the FtPC.
4. Student is unwilling or unable to accept the advice given for resolution of the issues leads to a formal investigation by the FtPC
5. Critical Issue leads to a formal investigation by the FtPC

If, during the course of this process, the Phase Director becomes aware that the student may have breached general University Regulations then he/she will take advice from the HOSM and, where appropriate, refer the matter for investigation according to the University Discipline Statute. This would not preclude such an issue being placed on the student's record in respect to fitness to practise; an example would be plagiarism.

1.10. Processes for administration of Fitness to Practise issues

- Details of all fitness to practise issues will be kept in the student's file until graduation, in confidentially signed envelopes.
- On receipt of the envelope, the Programme Manager (Medical Programme) places this in the student's file and checks if practise issues have been raised before.
- The Programme Manager informs the Head of the Medical Programme (or nominee on the FtPC) when three confidentially sealed envelopes are accumulated in the file.
- If a student is suspended from part or all of their studies, the Head of the Medical Programme or Phase Director will inform the relevant course coordinator(s) that the student will not be attending that component of the programme.
- When the files of graduating students are being secured, all confidentially sealed envelopes will be removed and given to the Head of the Medical Programme, or nominee on the FtPC, who will check that there is no graduate who should be notified to the MCNZ, before the incident reports are destroyed.
- The Head of the Medical Programme, or nominee on the FtPC, will ensure that each incident is logged on to a secure and password protected register, for audit purposes.

Examples of Process

Incident	Action/ Plans
<p>Significant health issue</p> <p>Student found to be infected with Hep B and is an "s antigen" carrier</p>	<p>Action</p> <ul style="list-style-type: none"> • Student seen by the Directors of Medical Student Affairs who keeps a note of the meeting • Issues discussed with student and expert advice sought • Agreed limitations put on student's training stopping high risk activities • Referral to specialist hepatologist made for treatment advice • Student advised of obligation to inform MCNZ
<p>Poor attendance</p> <p>A student's attendance during a clinical attachment was poor. The issue was brought to the attention of the Head of Department (HoD).</p>	<p>Plan</p> <ul style="list-style-type: none"> • HoD meets with student and explores the reasons for poor attendance. <ul style="list-style-type: none"> - Student and HoD agree on the issues. HoD formally warns student and fills in report to be filed in student's record. - Student and HoD disagree on the issue. HoD contacts Phase Director who will meet with student and attempt to resolve issue. FtP report filed in student's record. - HoD finds significant social problems have led to absence. Student referred to Directors of Medical Student Affairs. • The Phase Director will receive the report and check the student's record. If this was the first time concerns have been raised no further action is taken. <ul style="list-style-type: none"> - Second issue raised. Issues considered and usually the Phase Director will see the student to discuss the issue. A warning would be given that any further issues would result in review by the FtPC. - Third issue – formal referral to the FtPC
<p>Cheating</p> <p>A student is caught cheating during an examination.</p>	<p>Actions</p> <ul style="list-style-type: none"> • Formal referral to University Disciplinary committee. • If found guilty then this finding is a fitness to practise issue in the student's file. <p>If this incident was the third issue then a formal referral to the FtPC would be made.</p>
<p>Unprofessional behaviour</p> <p>A patient complained that a student carried out an unchaperoned sensitive examination in a manner which made them feel uncomfortable. The HOD is informed, who in turn spoke to the HOSM.</p>	<p>Actions</p> <ul style="list-style-type: none"> • HOSM regards incident as extraordinarily critical. Student contacted by HOSM and formally suspended from clinical studies. • Head of School gathers all relevant information. • FtPC convened and hears case. • Student required to restart year and attend further training sessions. • Student advised that any further breaches of fitness to practise code will result in being removed from programme.
<p>Criminal conviction</p> <p>A student reports that they have been convicted of a criminal offence. They were caught in possession of a small quantity of marijuana. The HOSM considers the issue and, after seeking advice, convenes the FtPC.</p>	<p>After hearing the evidence the student is asked to restart the year following appropriate and agreed counselling. The student is made aware that any further breaches of the fitness to practise will result in them being withdrawn from the programme.</p>

Appendix 1 Excerpts from HPCAA 2003

Section 16 Fitness for registration

No applicant for registration may be registered as a health practitioner of a health profession if---

(g) he or she---

(i) is subject to an order of a professional disciplinary tribunal (whether in New Zealand or in another country) or to an order of an educational institution accredited under section 12(2)(a) or to an order of an authority or of a similar body in another country; and

(ii) does not satisfy the responsible authority that that order does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or

(h) the responsible authority has reason to believe that the applicant may endanger the health or safety of members of the public.

Section 45 Notification of inability to perform required functions due to mental or physical condition

4) Subsection (5) applies to a person in charge of an educational programme in New Zealand that includes or consists of a course of study or training (a course) that is a prescribed qualification for a scope of practise of a health profession.

(5) If a person to whom this subsection applies has reason to believe that a student who is completing a course would be unable to perform the functions required for the practise of the relevant profession because of some mental or physical condition, the person must promptly give the Registrar of the responsible authority written notice of all the circumstances.

2. Medical Council of New Zealand

Medical students' fitness for registration

Extract from MCNZ website:

We have no jurisdiction over medical students however your conduct and health prior to graduation can affect your future eligibility for registration as a medical practitioner.

Here are some ways in which your eligibility for registration may be affected:

1. Under Section 16 of the Health Practitioners Competence Assurance Act 2003, (the Act) you must be fit to practise medicine. This refers to your conduct and health, your English language ability and your medical skills and knowledge.
2. The medical school Dean is required to advise us of any doctors who may not be fit to practise due to physical or mental ill-health.
3. When applying for registration, we ask you questions relating to your fitness for registration. We ask similar questions when you apply to renew your practising certificate. The Act allows for penalties (of up to \$10,000) for false declarations or representations. Failure to give this information could jeopardise your right to registration.

We are particularly concerned about the health of young doctors, and that dealing with drugs can expose students and young doctors to the risk of abuse of substances or conviction or crime for drug usage or sale. The Council's Health Committee takes a constructive approach to doctors who become addicted to drugs or alcohol and works with them through a monitoring programme to ensure early recovery.

We have a policy on transmissible major viral infections. Screening for HBV (hepatitis B virus) is strongly advised. If you believe you have been at risk of contracting HBV or HIV (human immunodeficiency virus) you should be aware of your serological status. We encourage you to be vaccinated against HBV.

If you are concerned about your future eligibility for registration and have something you may need to declare, speak with the Dean or contact the Registrar at our Wellington office (toll free ph 0800 286 801).

In the past ten years no one qualifying at a university medical school in New Zealand has been denied registration on the grounds of lack of fitness.

Some have declared convictions (eg, drink driving) or health conditions (eg, psychiatric or other illness) and we have obtained reports to ensure that the new doctor has appropriate support, and if necessary, therapy, and the public health and safety is not at risk.

Further information on website: www.mcnz.org.nz

NOTES:

Section 16 of the HPCAA Fitness for registration

No applicant for registration may be registered as a health practitioner of a health profession if:

- a) he or she does not satisfy the responsible authority that he or she is able to communicate effectively for the purposes of practising within the scope of practise in respect of which the applicant seeks to be, or agrees to be, registered; or
- b) he or she does not satisfy the responsible authority that his or her ability to communicate in and comprehend English is sufficient to protect the health and safety of the public; or
- c) he or she has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer, and he or she does not satisfy the responsible authority that, having regard to all the circumstances, including the time that has elapsed since the conviction, the offence does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or
- d) the responsible authority is satisfied that the applicant is unable to perform the functions required for the practise of that profession because of some mental or physical condition; or
- e) he or she is the subject of professional disciplinary proceedings in New Zealand or in another country, and the responsible authority believes on reasonable grounds that those proceedings reflect adversely on his or her fitness to practise as a health practitioner of that profession; or
- f) he or she is under investigation, in New Zealand or in another country, in respect of any matter that may be the subject of professional disciplinary proceedings, and the responsible authority believes on reasonable grounds that the investigation reflects adversely on his or her fitness to practise as a health practitioner of that profession; or
- g) he or she:
is subject to an order of a professional disciplinary tribunal (whether in New Zealand or in another country) or to an order of an educational institution accredited under section 12(2)(a) or to an order of an authority or of a similar body in another country; and does not satisfy the responsible authority that that order does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or
- h) the responsible authority has reason to believe that the applicant may endanger the health or safety of members of the public.