

Faculty of Medical and Health Sciences The University of Auckland

MBChB Code of Practice for Fitness to Practise

Jan 2010 to Dec 2014

1. Introduction

Medical students represent part of the medical profession. Whilst they are not yet bound by the full professional constraints imposed upon practising doctors, it is important that issues that may affect their future fitness to practise are fairly and transparently addressed by the medical programme. This paper outlines the policy and mechanisms to process fairly and equitably issues concerning a student's future fitness to practise.

There is general agreement upon the personal attributes that medical graduates must espouse/display, which include:

- Honesty
- Integrity
- The ability to work as part of a team
- Reliability
- Tolerance
- Conscientiousness
- Insight and recognition of personal limitations and uncertainty
- Respect for both patients and colleagues

Health and conduct of students prior to graduation may have a significant bearing on their future eligibility for registration. Following admission to the programme, students will be expected to indicate to Faculty if they are aware of any issues that may affect their later ability to practise medicine. The Medical Council of New Zealand (MCNZ) does not currently register medical students, but expects medical schools to have a defined fitness to practise policy that it credentials. This Faculty has had a policy in place since 2004.

Sections 16 and 45 of the Health Practitioners Competence Assurance Act 2003, along with guidelines produced by the MCNZ within the document 'Fitness for registration: guidelines for medical students,' provide the framework for the policies and processes for medical students and those leading the medical programme (see Appendix 1 for relevant excerpts from the HPCAA).

The clear and stated linking of this Code of Practice with the professional standards expected by the MCNZ helps to ensure consistency with the process with which the majority of graduates will be expected to conform, once a practicing physician.

2. Goal the 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.

3. 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 from students and graduates of this Faculty.

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)

4. 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 practice 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.

5. Process

5.1 Referral Process

The process is 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, Assistant Dean (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 Assistant Dean (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 Assistant Dean (Student Affairs) provides one 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 Assistant Dean (Student Affairs) is aware a student has had persistent or severe episodes that may affect fitness to practise, the Assistant Dean (Student Affairs) will:

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

The Assistant Dean (Student Affairs) 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	Assistant Dean (Student Affairs) / Phase Director or others e.g. Student Health	Assistant Dean (Student Affairs)	Head of School of Medicine
Action	Devise an agreed action plan with student +/- Phase Director / Associate Dean	Devise an agreed action plan with student and Phase Director / Associate Dean	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 - exit interview with Assistant Dean	Decided by Fitness to Practise Committee (FtPC)
Report	Notes kept by Assistant Dean on file.	Notes kept by Assistant Dean 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 Fitness to Practise Committee, and decision kept on student file permanently

Table 2: Professional attitudes

The Assistant Dean (Student Affairs) and/or the Phase Director initially determine whether an issue is potentially non-critical or critical. The Associate Dean (Medical Programme) may be approached for advice.

	Non-critical	Critical	Extraordinarily critical
Refer to	HOD, Phase Director and/or Assistant Dean (Student Affairs)	Head of Department, and/or Assistant Dean (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 chair of 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 Assistant Dean (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 Assistant Dean (Student Affairs). Once the issue is discussed, the Assistant Dean 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	Assistant Dean (Student Affairs)	Assistant Dean (Student Affairs)
Action	Advice and guidance	
Anticipated Outcomes	Student may continue their study	Formal referral to FtPC
Report	Filed in student record temporarily	Decision confirmed by FtPC

5.2 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 Practice 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 (See Appendix 1).

Membership

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

- Head of School of Medicine (Chair)
- Chair of Board of Studies, or his/her nominee
- Senior member of the Schools of Nursing and 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 Assistant Dean (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 Head of the School of Medicine 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).

5.3 Fitness to Practise Report

Refer to Appendix 2.

6. Outcomes of Process

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

Area 1: Health or Personal issues

The 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 Assistant Dean (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 students who have either persistent non-critical or critical attitudinal issues. 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 HOSM or their representative 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 here 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 Head of the School of Medicine will notify the Dean, who may ask for further medical advice, and/or advice from the MCNZ.

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 University Statute.

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.

9. Processing of a report

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

- i) First report of non-critical issue and discussion with HOD, Assistant Dean (Student Affairs) or Phase Director or Associate Dean and student. **file report in student record, except in the case of illness where the Assistant Dean (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.
- ii) Second report of non-critical issue, or a first issue that is not resolved after attempt at resolution through the Assistant Dean (Student Affairs) for issues related to physical or mental health, or for academic matters, the relevant Phase Director or Associate Dean: **file report in student record, except in the case of illness where the Assistant Dean (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 agreed resolution of the issues cannot be achieved at this stage a formal referral to the FtPC will be made. The Assistant Dean or Phase Director are

free to seek advice (in confidence) from any avenue they deem appropriate in dealing with these issues.

- iii) Third report of non-critical issue: **formal investigation by the FtPC**
- iv) Persistent or severe illness raising ongoing concerns at exit interview, with Assistant Dean (Student Affairs): **formal investigation by the FtPC**
- v) Student is unwilling or unable to accept the advice given for resolution of the issues: **formal investigation by the FtPC**
- vi) Critical issue: **formal investigation by the FtPC**

If, during the course of this process, the Phase Director or Associate Dean 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 practice; an example would be plagiarism.

10 Processes for administration of FtP issues

- Details of fitness to practise issues and outcome will be kept in the students file until graduation, in confidentially signed envelopes.
- On receipt of the envelope, the Programme Manager (Medical Programme) manager places this in the student's file and checks if practice issues have been raised before.
- The Programme Manager informs the Associate Dean (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 programme directorate or Phase Director will inform the relevant course co-ordinator(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 Associate Dean (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 Associate Dean (or nominee on the FtPC) will ensure that each incident is logged on to a secure and password protected FtP register, for audit purposes.

Examples of Process

Significant health issue

A student is found to be infected with Hepatitis B and is an "s antigen" carrier.

Action:

- Student seen by Assistant Dean (Student Affairs), who keeps a note of the meeting
- Issues discussed with student and expert advice sought
- Agreed limitations put on students training stopping high risk activities
- Referral to specialist hepatologist made for treatment advice
- Student advised of obligation to inform MCNZ.

Poor attendance

A student's attendance during a clinical attachment was poor. The issue was brought to the attention of the Head of Department.

Plan:

- Head of Department meets with student and explores the reasons for poor attendance.
 - Student and HoD agree on the issues. Head of Department formally warns student and fills in report to be filed in student's record.
 - Student and HoD disagree on the issue. Head of Department 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 Assistant Dean (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.
 - 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 Fitness to Practise Committee

Unprofessional behaviour

A patient complained that a student carried out an unchaperoned sensitive examination in a manner which made them feel uncomfortable. The Head of Department is informed, who in turn spoke to the Head of School of Medicine.

Actions

- HOSM regards incident as extraordinarily critical. Student contacted by HOSM and formally suspended from clinical studies;
- HoS 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.

Cheating

A student is caught cheating during an examination.

Actions

- Formal referral to University Disciplinary committee
- If found guilty then this finding is a fitness to practise issue in the student's file
- If this incident was the third issue then a formal referral to the FtPC would be made.

Criminal Conviction

A student reports that they have been convicted of a criminal offence. They were caught in possession of a small quantity of marijuana. The Head of School of Medicine considers the issues and, after seeking advice, convenes the Fitness to Practise Committee. After hearing the evidence the student is asked to continue the year following appropriate and agreed counselling. The student is made aware that any further breaches of the fitness to practise code will result in them being withdrawn from the programme.

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 practice 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 practice 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.

Appendix 2

Fitness to Practice Report Form

Student Name:

Student ID:

Phase and Year:

Date of notification of Issue:

Area of Concern:

Health or Personal

Professional Attitude

External to programme

Classification Category

Non-critical

Critical

Extraordinarily critical

(HOSM notified immediately)

Summary detail of issue:

Student first seen by..... (person and date)

Actions/plans agreed with student or advice/guidance provided at meeting

Other people with whom details of this matter has been discussed.

Other people who have seen this report.

If Non-critical

First incident

Second incident

Third incident

Report written by:

Date: