INTRODUCTION

Anaesthetists are expected to practise in a professional manner, to comply with ethical standards, and to comply with the codes of conduct of the relevant medical bodies, and institutions, including the legal requirements of the various jurisdictions.

They are expected to practice anaesthesia (or other clinical duties) in a way which ensures patient safety.

Codes of conduct reflect behaviours and values that have been developed and accepted by the medical profession.

The general virtues or attributes explicitly held by codes of conduct to be desirable include honesty, patience, integrity, diligence, respectfulness, professionalism (including confidentiality), compassion, cooperation, tolerance and humility. Other virtues may also be desirable.

Professional behaviour should be displayed in all interpersonal interactions with colleagues, patients and their families, both in face to face encounters, in print, in conversation, and in the social media.

A commitment to the principles of biomedical ethics is also essential: respect for autonomy, justice, beneficence, and non-malificience.

IMPAIRMENT IN A COLLEAGUE

Impairment can be said to occur when a colleague’s behaviour consistently departs from the expected behaviour set out in these codes of conduct, and impacts on his or her performance, and thus the safety of his or her patients.

A departure from expected behaviour may be caused by any physical or mental condition. The impairment may be acute, episodic, chronic, temporary or permanent. Unprofessional behaviour may affect, or has the potential to affect, a doctor’s performance, and his or her capacity to practice medicine safely.

IMPORTANT CONSIDERATIONS

A practitioner may be unwell, stressed, or distressed, without being impaired.
The medical profession has a duty of care to patients as well as colleagues.

If you consider a colleague’s performance and/or behaviour to be sufficiently impaired to jeopardise patient safety, then you may have a legal obligation to report him or her to the relevant registration authority (The Medical Board of Australia, the Medical Council of New Zealand, or the Health Ombudsman in some jurisdictions.)

This reporting is mandatory in most jurisdictions (see Resource Document RD 24). The Medical Board of Australia and the Medical Council of New Zealand have “Impaired Registrant” panels which can advise on performance issues. These panels supervise the treatment and rehabilitation of these doctors in a structured, supportive, and non-punitive manner.

In hospitals, employment obligations may also require you to report any concerns to the hospital/employer.

DIFFICULT ISSUES

- Anaesthetists work in isolation.
- Recognition of impairment is difficult, even when the colleague is well known to you.
- Confidentiality must be maintained, although mandatory reporting laws (see Australian law below) may require you to breach confidentiality where patient safety may be jeopardised.
- “Mandatory reporting” has the potential to cause concern in doctors treating other doctors, because of confidentiality issues. If patient safety is thought to be jeopardised, then reporting takes precedence.
- The practice of a colleague whom you suspect to be impaired may deviate minimally or significantly from accepted standards.
- Intervention and management may be complicated.
- You may wish to give support, but you must avoid condoning poor behaviours or practice.

- As an anaesthetist, you cannot become a "treating" doctor, (ie creating a situation of “Duty of Care”), by engaging in clinical advice to a potentially impaired colleague.
- However you can give advice as to which avenue(s) of professional help might be appropriate.
HOW DO YOU RECOGNIZE IMPAIRMENT?

- Nursing or anaesthetic assistant staff may report unacceptable behaviour, or incidents of concern, or may complain about the colleague’s work. (Personality clashes must be distinguished from impairment).
- You may observe unacceptable practices.
- Peer review, QA and accreditation systems may help in the early identification of impairment.
- Family members may report concern about the colleague’s health.

CONSIDERATIONS AND STRATEGIES

- **Early intervention** may prevent a minor issue from escalating into a major one.
- Verbal reports from nursing staff or anaesthetic assistant are often the avenue through which impairment is first suspected. **It is important that you confirm** whether or not there is an impairment issue, and if there is, whether the doctor’s behaviour departs consistently from that which would be expected.
- This **confirmation** may be difficult to achieve; you will need to have trusting and confidential relationships with certain team members to discover if there are grounds for the report(s). If necessary, trusted colleagues or nursing staff should be specifically asked to monitor performance, in complete confidence.
- **Privacy** issues must always be considered.
- **Discuss concerns with a trusted colleague** – two heads are better than one. You may need to report concerns to your supervisor. A senior colleague should take responsibility for further investigation. Consider employment obligations and any requirement to notify the employer of any valid concerns. You could consult the local Doctors’ Health Advisory Service, DHAS.
- **Potential medico-legal problems** must be considered. Consult with your defence organisation.
- **Do not take on a “duty of care”** towards an impaired colleague; rather, ensure that you make suggestions to him or her about access to appropriate resources. Similar advice may be given to colleague(s) who might enquire about impairment issues in another person.
- All concerns should be **documented**.
- **Criminal activities** must always be reported to the relevant registration authority.
- Discussion of the problems with the person concerned should be done with consideration for confidentiality and occasionally **extreme care** – it will usually be a “difficult conversation”.

The person should have a support person accompanying him/her if desired. Insight should be assessed. Take **time to listen to the story related by the person concerned**, not just the reports of his or her conduct (ie hear both sides of the story).

**Sick leave or retirement options** may be considered once impairment is confirmed. If involved, the relevant Medical Board, Council or Ombudsman will oversee these options, as well as any retraining/re-entry process. The Australian and New Zealand College of Anaesthetists (ANZCA) may be asked to assist with competency assessment.

**Substance abuse is a special situation**, and the Resource Document on this subject should be consulted. (RD 20 Substance Abuse Protocol).

**PRO-ACTIVE MEASURES**

- Institute ‘Buddy’ and/or mentor systems in a department (see RD 08).

- All new consultants should be encouraged to choose a senior member of the anaesthetic department to mentor them during their early years as a consultant.

- It is strongly recommended that all anaesthetists should have a general practitioner (GP).

- Regular visits to the GP should be encouraged for general health reasons.
  - Anaesthetists should not self-diagnose or self-medicate.
  - Corridor consultations should be discouraged

- Regular visits to the GP will engender a long term relationship between the anaesthetist and his or her GP, in order to facilitate interpersonal interactions in times of crisis.

**The WOA SIG is grateful to Mr Michael Gorton for reviewing this document**

**Further Reading**

The Australian and New Zealand College of Anaesthetists (ANZCA)
Ulimarao, 630 St Kilda Road, Melbourne, Victoria, 3004 Australia. + 61 3 9510 6299
www.anzca.edu.au
Handbook of Training and Assessment

Beauchamp, T.L. and Childress, J.F.

**Codes of Conduct**

- ANZCA Code of Professional Conduct. www.anzca.edu.au
- Medical Board of Australia: Code of Conduct “Good Medical Practice”.
  http://www.menz.org.nz

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Mandatory reporting is found in the Health Practitioner Regulation National Law Act 2009 Australia.

In s141 this law states that:
A registered health practitioner must notify AHPRA if he or she (the first health practitioner), in the course of practising the first practitioner’s profession, he/she forms a reasonable belief that –
(a) another registered health practitioners(the second health practitioner) has behaved in a way that constitutes notifiable conduct; or

(b) a student has an impairment that, in the course of the student undertaking clinical training, may place the public at substantial risk of harm.

In s 140 the term “notifiable conduct” is defined. Notifiable conduct means the practitioner:
(a) practised the practitioner’s profession while intoxicated by alcohol or drugs; or

(b) engaged in sexual misconduct in connection with the practice of the practitioner’s profession; or

(c) placed the public at risk of substantial harm in the practitioner’s practice of the profession because the practitioner has an impairment; or

(d) placed the public at risk of harm because the practitioner has practiced the profession in a way that constitutes a significant departure from accepted professional standards.

In s 5, impairment is defined Impairment is defined as meaning a person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect –
(a) for a registered health practitioner..., the person’s capacity to practice the profession; or

(b) for a student, the student’s capacity to undertake clinical training –

i. as part of the approved program of study in which the student is enrolled; or

ii. arranged by an education provider.

Older references which may be useful