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Regulation 28

Committee, Working Group and College Representative Responsibilities and Removal Regulation

Pursuant to article 7.3 of the Constitution:

7.3.1 The Council has the power from time to time to make, amend, or repeal all such regulations as it deems necessary or desirable for the proper conduct and management of the College, the regulation of its affairs and the furtherance of its objectives,

Noting that:

7.3.3 No regulation shall be inconsistent with, nor shall it affect the repeal or modification of, anything contained in the Constitution.

Purpose

This regulation describes the professional responsibilities expected of a person appointed to any College/Faculty role, committee, subcommittee, working group, or approved, endorsed or otherwise officially sanctioned ANZCA representative position (**Relevant Position**). It also describes the processes to be followed when removing a person from a Relevant Position.

Scope

1. This regulation applies to persons who have been appointed or nominated to a Relevant Position. For the removal of doubt, 'person' includes:

- (a) Fellow;
- (b) retired Fellow;
- (c) Honorary Fellow;
- (d) trainee;
- (e) specialist international medical graduate (SIMG);
- (f) any other individual appointed to a Relevant Position and who is not acting in that role or position as an employee of ANZCA. For clarity this includes advisors, consumers, community members, or representatives of external organisations.

2. The regulation does not apply to:

- (a) the election or appointment of Councilors of the Council, or the executive of the College, or of Office Bearers (e.g. President-elect) which is described in the Constitution; nor
- (b) the employment of a person by the College, which follows normal employment practices.

Pursuant to the Constitution clauses 7.1.1, 7.3.2(i), 7.3.2 (k), 7.5, and 17.1.

28.1 Requirements of the persons holding Relevant Positions

28.1.1 For the term of a Relevant Position, a person appointed to a Relevant Position must:

- 28.1.1.1 comply with the relevant ANZCA committees' and working groups' individual terms of reference.



28.1.2 Maintain professional registration with relevant bodies, and maintain good standing with the College and the community, including by achieving or maintaining (as the case may be):

- 28.1.2.1 current registration with regulatory authorities (as required);
 - 28.1.2.2 continuously meet the behavioural expectations, where relevant to the Relevant Position, as set out in the ANZCA booklet *Supporting professionalism and performance – A guide for anaesthetists and pain medicine physicians*, as amended from time to time;
 - 28.1.2.3 compliance with annual CPD requirements (as required);
 - 28.1.2.4 being a current financial member of the College (where relevant) including having paid all annual subscriptions due in accordance with the College's subscription requirements and having no outstanding debts to the College;
 - 28.1.2.5 not be subject to disciplinary sanctions, or court or tribunal proceedings that the College reasonably considers adversely affects, or are likely to adversely affect a person's suitability for, or ability to perform, the requirements of the Relevant Position;
 - 28.1.2.6 good standing within the community by conducting themselves in a manner that upholds the College's values, preserves public confidence in the College and does not bring the College or the profession into disrepute.
- 28.1.3 A person holding a Relevant Position must notify the ANZCA CEO in a timely manner if the person does not meet the professional registration and good standing obligations set out in Regulation 28.1.2.
- 28.1.4 A person holding a Relevant Position must promptly declare any actual, potential or perceived conflicts of interest arising from, or in connection with, their roles and responsibilities in the Relevant Position.
- 28.1.5 The person must notify ANZCA if there is a change in their circumstances which they believe will impact their ability to fulfil the requirements expected of them in their appointment to a Relevant Position.

28.2 Requirements for the removal a person from a Relevant Position

- 28.2.1 The Council may, in its sole discretion, warn, suspend or terminate the appointment of a person to a Relevant Position if:
- 28.2.1.1 the person (who is a member) fails to comply with the Constitution and any Rules and Regulations of the College applicable to members;
 - 28.2.1.2 the person has not complied with the criteria outlined in section 28.1;
 - 28.2.1.3 the person has failed to adequately perform the duties and responsibilities of the Relevant Position;
 - 28.2.1.4 the person misuses or abuses the rights, privileges or obligations arising from the Relevant Position;
 - 28.2.1.5 the person has been charged and/or is ~~or is~~ convicted of any serious offence;
 - 28.2.1.6 the Council believes that a complaint or charge of a serious nature is or will be made or issued by any medical board, medical council, medical tribunal, registration authority or similar body against the person;
 - 28.2.1.7 the person has engaged in, or been a party to:
 - 28.2.1.7.1 unprofessional or unbecoming conduct;
 - 28.2.1.7.2 conduct which is inconsistent with a person's membership or the position held;
 - 28.2.1.7.3 conduct which is prejudicial, adverse or damaging to the interests of the College; or
 - 28.2.1.7.4 conduct which conflicts with the interests, objects or affairs of the College;



- 28.2.1.8 the Council reasonably believes that the person poses a threat or risk to the community;
 - 28.2.1.9 any materials or evidence upon which any decision to appoint the person to the office or position are found to be to be false or misleading;
 - 28.2.1.10 the person becomes bankrupt or makes any arrangement or compositions with their creditors generally;
 - 28.2.1.11 the person becomes prohibited from being a director of a company by reason of any order made under a law of a state, territory or the Commonwealth of Australia or New Zealand;
 - 28.2.1.12 the person is charged with-or is found to be guilty of an offence under, or in breach of, any code, regulation or enactment which applies to the person as a practising anaesthetist, pain medicine physician or medical practitioner; or
 - 28.2.1.13 if the person, not being an Honorary Fellow, is required to be registered and ceases to be entered on any register of Medical Practitioners by a Medical Registration Authority recognised by the Council for that purpose, of a state or territory of Australia or New Zealand or has conditions, reprimands or has made 'voluntary undertakings imposed on such registration, other than:
 - 28.2.1.13.1 in circumstances of voluntary cessation of registration upon retirement from the practice of medicine; or
 - 28.2.1.13.2 with the prior approval of the Council.
- 28.2.2 Removal can only be approved if:
- 28.2.2.1 the person concerned has been given notice of the resolution to be considered by the Council and a copy of any business papers circulated to the Council regarding the resolution not less than 14 days prior to the date of the meeting. If the business papers do not contain particulars of any allegations supporting the resolution that is to be considered, a statement setting out those allegations must be given;
 - 28.2.2.2 the Member has been invited to make submissions to the meeting in writing;
- 28.2.3 The Board of the Faculty of Pain Medicine will follow the process outlined in regulation 28.2.1 in making a recommendation to Council about removal of a Faculty role or position from any person.
- 28.2.4 If the Council initiates the removal of a person from any role or position within the Faculty of Pain Medicine, the Council must first notify the Board of the Faculty of Pain Medicine under regulation 28.1.3.

28.3 Application for reinstatement of role or position

- 28.3.1 Any person whose role or position has been terminated for a breach of Regulation 28.1.2 may not be reappointed, unless they re-establish they are in good standing to the absolute discretion of the Council. The person may only be reinstated if a suitable position remains open.
- 28.3.2 The applicant must at the time of making an application provide the Council with a written statement and supporting evidence that they are in good standing including:
- 28.3.2.1 a detailed account of the relevant conduct and practice of the applicant since the time of removal;
 - 28.3.2.2 any mitigating circumstances;
 - 28.3.2.3 if relevant, any punishment imposed by any Court, Tribunal, or other regulatory body, together with its secondary effects, in connection with the offence, event or matter to which the removal related;
 - 28.3.2.4 if relevant, evidence of remorse, contrition and acceptance of responsibility for the offence, event or matter to which the removal related; and
 - 28.3.2.5 states why, in the applicant's opinion, the applicant should be reappointed; and
 - 28.3.2.6 written evidence of a successful completion of a return to practice' program if there has been an absence from practice, according to the requirements of *PG50 Guideline on return to anaesthesia practice for*



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anaesthetists or PG 13(PM) Return to practice – pain medicine for pain medicine physicians; and

28.3.2.7 such other information as the Council may require.

28.3.3 The Council may:

28.3.3.1 convene, or seek to convene, a meeting with any applicant. Any such meeting shall be held and conducted on such terms and conditions as the Council determines from time to time; and/or

28.3.3.2 notify an applicant of the grounds upon which their application has been rejected or accepted.

28.3.4 If the Council convenes a meeting pursuant to Regulation 28.3.3.1, the Council must:

28.3.4.1 give the applicant an opportunity to be heard; and

28.3.4.2 give due consideration to any written statement submitted by the applicant.

28.3.5 The Board of the Faculty of Pain Medicine will follow the process outlined in regulations 28.3.1, 28.3.2, 28.3.3 and 28.3.4 in making a recommendation to Council about reinstatement of any person to a Faculty role or position.

28.3.6 If the Council initiates the reinstatement of a person to any role or position within the Faculty of Pain Medicine, the Council must first seek the recommendation of the Board of the Faculty of Pain Medicine under regulation 28.3.5.

28.4 Warning letter

28.4.1 Without being obliged to do so, the Council may issue a warning letter to a person, containing such terms as the Council determines from time to time.

28.4.2 Without limitation, a warning letter may identify concerns the Council has about a person's conduct, or events or circumstances that have come to the attention of the Council which may give rise to a person's office or position being terminated in accordance with the Constitution or these regulations.

28.4.3 The issuing of a letter by the Council will not:

28.4.3.1 require the Council to take any further action or do anything; or

28.4.3.2 prejudice the rights of the Council or the College in respect of any action, step, claim or demand made in connection with the termination of the role or the position of a person.

28.5 Reconsideration, review and appeal

28.5.1 Any decision of the Council under these Regulations may be subject to appeal under the College's Reconsideration, Review and Appeal of Decisions Policy (Regulation 30).

Definitions and interpretation

In these regulations:

- *"Constitution" means the Constitution of the Australian and New Zealand College of Anaesthetists as amended from time to time; and*
- *"Regulations" means any regulation made in accordance with article 7.3; and*
- *"Council" means the ANZCA Council; and*
- *Fellow means a person who for the time being holds ANZCA and/or FPM Fellowship pursuant to ANZCA Constitution clauses 2.2 and 2.3 and is therefore a Member of the College; and*
- *"Working groups" means short term groups for example document development groups as well as groups established for the longer term such as Specialist Interest Group (SIG) executives, and community of practice networks*
- *Heading and boldings do not affect the interpretation.*

Unless otherwise specified, or the contrary intention appears in these regulations:



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- *Where a word or phrase is defined in the Constitution the word or phrase has the same meaning throughout these regulations; and*
- *The singular includes the plural and vice versa; and*
- *A person includes an individual, a body corporate, a partnership, a firm, unincorporated association or institution and a government body; and*
- *These regulations shall come into operation on the date they are approved and adopted by the Council.*

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