



What you can expect

The performance assessment

Medical Council of New Zealand

Protecting the public, promoting good medical practice

Te tiaki i te iwi whānui me te whakatairanga pai i te mahi e pā ana ki te taha rongoā



What is a performance assessment?

The Health Practitioners Competence Assurance Act 2003 (HPCAA) emphasises the maintenance of professional standards in medical practice.

Under the HPCAA, doctors can have their competence/performance reviewed at any time, or in response to concerns about their practice.

The assessment procedures set out in Part 3 of the HPCAA are designed to protect the public, focus on improvement and use a process that is thorough and fair.

This pamphlet explains what a doctor can expect in an assessment of his or her performance.

The Medical Council of New Zealand

The Council is the body set up to protect the health and safety of the public by ensuring that doctors are competent to practise medicine. More information on the Council's role can be found on the Council website: www.mcnz.org.nz

What does a performance assessment involve?

A performance assessment aims to ensure a doctor is practising at the required standard in the following domains of competence:

- medical care
- communication
- collaboration
- management
- scholarship
- professionalism.

A doctor inevitably feels anxious about a performance assessment. The Performance Assessment Committee (PAC) acknowledges these feelings and will be as supportive as possible. A performance assessment is designed to review and educate; it is not a disciplinary process.

If, as a result of a performance assessment, the PAC believes a doctor does not meet the required standard, the Council will require one or more of the following:

- that the doctor undertakes an educational programme
- that one or more conditions be included in the doctor's scope of practice
- that the doctor sits an examination or does an assessment specified by the Council
- that the doctor is counselled or helped by one or more nominated people.

The Council recognises that everyone usually benefits from the doctor remaining in practice throughout the performance assessment process, unless there are risks to patient safety.

Where do concerns about doctors come from?

A concern can come from any source including:

- other doctors or colleagues
- other health workers
- a health provider
- a Professional Conduct Committee
- the Health Practitioners Disciplinary Tribunal (HPDT)
- the Health and Disability Commissioner (HDC)
- the Accident Compensation Corporation (ACC)
- a patient.

Communicating with the doctor

When a concern has been raised, the first step is to tell the doctor. Depending on the circumstances and context of the referral, the Council may ask the doctor for details of any personal, environmental, managerial or systems factors that may have affected his or her practice and led to the concern.

The Council recognises there may well be distractors or stressors in a doctor's personal or work life and that these need to be addressed before it can decide whether the doctor is practising at the required standard.

The Council then considers the matter and decides whether the doctor should have a performance assessment. To protect the doctor's confidentiality, all correspondence is sent by courier and labelled 'private and confidential'.

Who is on the Performance Assessment Committee?

If a performance assessment is to be done, the Council appoints a PAC, which consists of two medical practitioners, usually from the same medical discipline, and one lay person. All three assessors will have done training for participation on PACs.

The doctor or his or her legal representative may object to the Terms of Reference (TOR), the tools to be used, or if he or she believes the PAC assessors have a conflict of interest. If the doctor being assessed

challenges one of the assessors, the Council's practice is to replace that assessor if possible.

Before the performance assessment

Open communication means there are no surprises before a performance assessment. The Council sends the doctor a letter containing:

- the reasons for carrying out the performance assessment
- the TOR and information about the members of the PAC.

The Council then gives the doctor the opportunity to comment on the nature of the planned performance assessment.

The Council then sends the PAC a copy of the TOR for the performance assessment containing details of the events that led to the concern so members of the committee can tailor the performance assessment accordingly.

The performance assessment

The PAC will visit the doctor's practice or in exceptional circumstances meet the doctor in a mutually agreed location. The doctor may have a support person present.

The performance assessment may cover patient management, practice systems, record-keeping, prescribing, audit and direct observations. The PAC uses carefully developed, standardised techniques based wherever possible on existing methods for assessing clinical performance.

How long does the performance assessment take?

The doctor can expect the on-site part of the performance assessment to last at least one full day. The entire process, from the initial notification of concern, may take up to six months. While the aim is for the process to be as smooth as possible, a performance assessment does take time because procedures must be rigorous to ensure all parties are treated fairly. Finding qualified and available assessors for the PAC can sometimes cause delays.

The PAC report

The PAC writes its report after meeting the doctor and sends the report to the Council. The Council then sends the report to the doctor. The doctor has the opportunity to make written submissions and/or be heard on the assessment, either personally or through a representative.

The Council then considers all the information before deciding what, if anything, happens next.

The Council releases the PAC report only to people legitimately involved in a performance assessment or in improving performance. This includes the doctor's employer if the PAC recommends an educational programme or identifies risks to public health and safety.

If the PAC recommends an educational programme for the doctor, the Council decides whether the programme should take place and what form it should take.

Educational programme

An educational programme may include one or more of the following:

- a period of practical experience and/or training
- the doctor passing a further examination or assessment
- undertaking a course of instruction
- the doctor working under supervision
- a review of the clinical records kept by the doctor.

The Council also specifies how soon the doctor must comply with the requirements of the educational programme and appoints educational and clinical supervisors if appropriate.

Each course of action has clearly defined objectives to produce the best possible outcome for the doctor.

The doctor's progress is monitored and there will usually be a reassessment at the end of the programme.

The doctor's employer may be asked to help with supervision.

Costs

Costs of a performance assessment are met by the profession as a whole (ie, the Council pays) but educational programme costs (educational and clinical supervision) are paid for by the doctor.

What happens if an educational programme is unsuccessful?

If a doctor does not satisfy the requirements of an educational programme the Council may:

- restrict the doctor's scope of practice by changing the health services he or she can perform; or
- include any condition or conditions it considers appropriate on the doctor's annual practising certificate (APC); or
- suspend the doctor's registration.

Under the HPCAA, the Council must write to the doctor telling him or her why it proposes to restrict the doctor's practice or suspend the doctor's registration, giving the doctor the opportunity to make written submissions and be heard, either personally or by a representative.

Right of appeal

The performance assessment process observes the rules of natural justice. The doctor has a right of appeal when the Council imposes conditions or varies conditions on the doctor's scope of practice, or suspends the doctor's practising certificate or registration.

The doctor must lodge an appeal within 20 days after the Council communicates its decision or as ordered by the District Court judge on application.

Who knows about a performance assessment?

If the Council has reason to believe that a doctor's practice may pose a risk of harm to members of the public, it is required by the HPCAA to tell the ACC, the Director-General of Health, the HDC and the doctor's employer. It may also tell any person who works in a

partnership or in association with the doctor.

If the risk of harm the Council believed was present no longer exists, the Council must promptly tell the organisations or people originally notified of the change in circumstances.

The Council requires the doctor to tell his or her employer about a performance assessment if access to patient records is needed. If the Council believes it is in the interests of public health and safety, the Council can tell the employer or a person working in association with a doctor that the doctor has been ordered to have a performance assessment.

If an educational programme is ordered, the Council is required by the HPCAA to tell:

- the doctor concerned
- the doctor's employer
- any person that works in association or partnership with the doctor

Further information

If you have any questions or concerns, please call the Council office. A Professional Standards staff member will be happy to answer your questions.



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