ACECC
Anaesthesia Continuing Education Coordinating Committee

Review RD13 (2011)

WELFARE OF ANAESTHETISTS SPECIAL INTEREST GROUP

IMPAIRMENT IN A COLLEAGUE

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 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 desirable: *respect for autonomy, justice, beneficience, and non-malificience.*

IMPAIRMENT IN A COLLEAGUE

Impairment can be said to occur when a colleague's behaviour <u>consistently</u> departs from the expected behaviour set out in these codes of conduct, <u>and</u> impacts on his or her performance.

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. This reporting can be 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. **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 or Council 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 for 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)
Ulimaroa, 630 St Kilda Road, Melbourne, Victoria, 3004 Australia. + 61 3 9510 6299
Professional Documents. www.anzca.edu.au
PS 16 Standards of Practice of a Specialist Anaesthetist
TE 6 Guidelines on the Duties of a Specialist Anaesthetist
TE 18 Policy for Assisting Trainees in Difficulty

Beauchamp, T.L. and Childress, J.F.
2001. Principles of Biomedical Ethics, 5th edition. New York: Oxford University Press.,

Codes of Conduct
- ANZCA Code of Professional Conduct. www.anzca.edu.au
- Good Medical Practice. 2001 General Medical Council, London. The duties of a doctor registered with the General Medical Council. http://www.gmc-uk.org
- Medical Board of Australia: Code of Conduct "Good Medical Practice". http://www.medicalboard.gov.au/Codes-and-Guidelines.aspx
- Good Medical Practice. A guide for doctors. *2002* The Medical Council of New Zealand. http://www.mcnz.org.nz

Gorton M
2010. Mandatory reporting. Surgical. News; vol 11 no 7; p 11

Medical Board of South Australia
2003. The Need for Care of the Medical Profession.

Medical Council of New Zealand. www.mcnz.org.nz

Stone D, Patton B, Heen S.
2000. Difficult conversations: how to discuss what matters most. Penguin Books,

Welfare of Anaesthetists Special Interest Group: Resource Documents (RDs)
RD 01 Personal Health and Strategies
RD 03 Depression and Anxiety
RD 07 Sexual Misconduct
RD 08 Mentors and peer support programs
RD 20 Substance Abuse protocol
RD 24 Mandatory Reporting

Health Practitioners Competence Assurance Act 2003 New Zealand

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

Atkinson RS. 1994. The problem of the unsafe anaesthetist. BJA 73:29-30

O'Hagan J. 1996. The best of health to you, doctor. NZMJ 109:280-2

Posen S. Doctors in Literature. The portrayal of the doctor in non-medical literature: the impaired doctor. MJA 1997 166:48-51

Schwartz et al. Four years' experience of a hospital's impaired physician committee. J Addictive Diseases, 1995 14(2):13-21

Whilst the Welfare of Anaesthetists Special Interest Group endeavours to ensure that Resource Documents are as current as possible at the time of their preparation, it takes no responsibility for matters arising from changed circumstances or information or material which may become available subsequently.

Promulgated: *1996*
Date of Current document: *2011*

ACECC is a joint initiative of the Australian and New Zealand College of Anaesthetists, the Australian Society of Anaesthetists and the New Zealand Society of Anaesthetists.

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