

HEALTH SERVICES ACT 1997

By-Laws

Part 1 – Preliminary

1. Name of the By-law

This By-law may be cited as the Northern Sydney and Central Coast Area Health Service By-law.

2. Definitions

Expressions used in this By-law are defined in the Dictionary at the end of the By-law.

Part 2 – By-laws information

3. Availability of By-laws

The Chief Executive is to ensure that copies of the current By-laws for the public health organisation are available to staff of the public health organisation and the public.

4. Amendment of By-laws

The Chief Executive is to refer any proposed amendment of Parts 5-7 of the By-laws to the Medical Staff Executive Council.

Part 3 – Conduct of meetings

5. Conduct of meetings

- (1) Any meeting of any committee or council provided for under these by-laws may decide to allow any of its members or other invitees to participate or vote in the meeting from a location other than the place where the meeting is being held. Such participation may be by telephone, facsimile, video or other electronic medium as is appropriate to the circumstances or the business being transacted. A member of a committee or council participating from a remote location shall be regarded as being present at the meeting for the purposes of the calculation of a quorum or any other similar matter required under these by-laws.
- (2) The Committee or council may determine a protocol or procedure for remote participation of members or other persons in its meetings.

Part 4 – The seal

6. The seal

- (1) The Chief Executive is to ensure the safe custody of the seal of a public health organisation.
- (2) The seal of the public health organisation is to be affixed only to documents on behalf of the public health organisation when the chief executive signs such documents and the signature and sealing of the document are formally witnessed.

Part 5 – Chief Executive Committees

7. Chief Executive committees

- (1) The Chief Executive is to establish committees to provide advice or other assistance to enable the Chief Executive to perform his duties under the Act.

The committees are to include:

- a. audit;
 - b. finance;
 - c. health care quality; and
 - d. such other committees as may be determined by the Chief Executive, such as governance and risk management.
- (2) For the purpose of Part 5 of this By-law only such Chief Executive committees are referred to as “committees”. For the purposes of clarity, the provisions of this Part 5 do not apply to “area health advisory councils” established under section 26 of the Act or “advisory councils” established under section 52D of the Act.

8. Committee chairpersons and secretaries

- (1) The Chief Executive is to nominate a chairperson of each committee set up under this Part.
- (2) The Chief Executive is to appoint a person to act as the secretary of each committee.

9. Functions of committees

- (1) A committee is to provide advice or other assistance on issues as requested by the Chief Executive.

- (2) These issues may include:

- a. efficient and economic operation of:
 - i. the public health organisation;
 - ii. industrial relations;
 - iii. human resources;
 - iv. financial and asset management;
- b. adequate standards of patient care and services;
- c. health needs of the community serviced by the public health organisation
- d. strategies to ensure an appropriate balance in the provision and use of resources for health protection, health promotion, health education and treatment services;
- e. effective communication with other health services and health service providers;
- f. adequate arrangements for effective communication and cooperation between medical practitioners, including general practitioners, providing medical services within the geographic area of the Area Health Service.

10. Committee membership

- (1) The chairperson of the audit committee is not to be the chairperson of the finance committee (or a similar committee).
- (2) The audit committee is to comprise at least three members, two persons who are not employees of, or contracted to provide services to, the public health organisation. The Chief Executive shall be a member of the audit committee but must not be the chairperson.
- (3) The Chief Executive is to appoint at least one representative of the executive staff of the public health organisation to a committee (other than the audit committee).

- (4) The Chief Executive is to appoint such medical practitioner representation as he considers appropriate to each committee, other than the audit and finance committees.
- (5) Where there is to be medical representation on a committee, the Chief Executive is to consult with the Medical Staff Executive Council or any relevant Medical Staff Council as applicable on the proposed appointees.
- (6) The Chief Executive may appoint any other person as a committee member as he thinks fit, subject to any corporate governance policy issued by the Department from time to time.
- (7) The Chief Executive may remove any committee member as he thinks fit, subject to any corporate governance policy issued by the Department from time to time.

11. Term of office

Any person nominated to a committee by the Chief Executive holds office for such period as the Chief Executive may determine, subject to any corporate governance policy issued by the Department from time to time.

12. Committee quorum

The quorum for a meeting of a committee is a majority of the appointed number of the committee members.

13. Attendance

A committee may invite any person to attend a committee meeting.

14. Committee voting

A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present is to be the decision of the committee.

15. Notice of meetings and special meetings

- (1) The chairperson of a committee, or a person authorised by the chairperson to do so, is to give written notice of a meeting to each committee member at least 7 days prior to the meeting.
- (2) When the chairperson of a committee considers that a matter is of such urgency that a special meeting of a committee should be held within a period of not less than 48 hours of such a request, the chairperson may request the chief executive to give written approval to the conduct of such a special meeting. The written approval of the chief executive may determine, subject to this clause and these by-laws, the business and conduct of such a special meeting.
- (3) A special meeting shall be held, if approved, not later than 7 days after receipt by the chief executive officer of such a request.
- (4) The chairperson of a committee is to ensure that at least 24 hours' notice is given of a special meeting to each member and each person invited to attend the meeting.
- (5) Notice of a special meeting is to specify the business to be considered at that meeting.
- (6) Only business specified in the notice of a special meeting is to be considered at the special meeting.
- (7) Each provision of this clause shall be subject to any corporate governance policy issued by the Department from time to time.

16. Meetings

- (1) A committee established to provide advice or assistance to the Chief Executive on audit or finance is to meet at such regular intervals and at such times and places as may be determined by the committee.
- (2) Any other committees are to meet as specified by the Chief Executive, subject to any corporate governance policy issued by the Department from time to time.

Part 6 – Councils representing medical staff

17. Definition

In this Part, **member** means a member of a council.

18. Establishment of medical staff councils

- (1) The Chief Executive is to establish either:
 - a. a Medical Staff Council (in the case of a statutory health corporation); or
 - b. a Medical Staff Executive Council and at least two medical staff councils (in the case of an Area Health Service).
- (2) Medical staff councils are to be composed of all visiting practitioners, staff specialists, career medical officers and dentists appointed to the public health organisation or the public hospital or hospitals which the council represents.
- (3) Sufficient medical staff councils should be established to ensure that all visiting practitioners, staff specialists, career medical officers and dentists of the public health organisation are members.

Note: For medical staff councils with five members or less refer to the special provisions under clause 28.

19. Medical staff council liaison with Chief Executive

- (1) The Chief Executive is to meet with the Medical Staff Executive Council on a regular basis at such frequencies, times and places as may be mutually agreed between them, provided that such meetings shall be held no less than four times in each calendar year.
- (2) The Chief Executive is to meet or consult with each Medical Staff Council or its representatives at least once in each twelve month period.
- (3) Compliance with subclause (2) may be satisfied by means of meeting or consultation with representatives of individual Medical Staff Councils of less than 50 members who are members of the Medical Staff Executive Council. Such consultation can be by way of the remote participation means set out in clause 5.

20. Medical Staff Executive Council

- (1) A Medical Staff Executive Council shall be composed of representatives of the Medical Staff Councils for the hospitals under the control of the public health organisation.
- (2) Subject to subclause (4), each Medical Staff Council shall nominate as its representative or representatives on the Medical Staff Executive Council –
 - a. if the Medical Staff Council has 50 members or less, one member of that Council, provided that such a member may by agreement also act as the proxy representative for one or more other Councils with less than 50 members; or
 - b. if the Medical Staff Council has more than 50 members, one member of that Council for each 50 members or part thereof; or

- c. if the Medical Staff Council has more than 50 members, and such an arrangement has been mutually agreed between the Medical Staff Council and the Chief Executive, by the chairperson and one other representative of the Council or their nominated alternate.
- (3) For the purposes of subclause (2), the number of members of a Medical Staff Council shall be determined as at 1 January in the relevant year.
- (4) The number of representatives of any Medical Staff Council on a Medical Staff Executive Council shall not exceed the total number of representatives of all other Medical Staff Councils on the Medical Staff Executive Council.

21. Functions of council

The Medical Staff Executive Council or the Medical Staff Council (if there is only one council for the public health organisation) is to provide advice to the Chief Executive on medical matters.

22. Voting at meetings of councils

- (1) Any matter put to the vote at any meeting of a council is to be decided by a show of hands, or by secret ballot if requested by a member present at the meeting.
- (2) A decision supported by a majority of the votes cast at a meeting of members at which a quorum is present is to be the decision of the council.

23. Office bearers of councils

- (1) A council is to elect a chairperson of the council and other office bearers it considers necessary from among the members.
- (2) Such elections are to be held at an ordinary meeting of a council once each calendar year.
- (3) An office bearer is to hold office until vacation of the office or until the next election, whichever occurs first.
- (4) An office bearer shall be eligible for re-election to the same office, provided that no more than three (3) consecutive terms are served, unless there are special circumstances and a further consecutive term has been approved by the Chief Executive.
- (5) The chairperson of a council is to hold office from the time of his or her election as chairperson until vacation of the office or until the next election, whichever occurs first.
- (6) If an office becomes vacant between elections, the vacancy is to be filled by an election at a special meeting of the council. The special meeting is to be held within 30 days of the vacancy occurring.

24. Ordinary meetings of councils

- (1) Ordinary meetings of a council are to be held at times and places determined by the council.
- (2) The chairperson of a council, or other office bearer of the council authorised by the chairperson to do so is to provide written notice to each member, at least 7 days prior to an ordinary meeting.
- (3) The medical administrator of the public health organisation (however designated) is to be invited to attend all meetings of the council (unless already a member). However the council may exclude the medical administrator from any meeting, or part of a meeting, where the business under consideration relates to the conduct or performance of the medical administrator in that position.
- (4) A council may invite any other person, including any staff member of the public health organisation, to attend any of its meetings.

- (5) The council may exclude any invitee from any meeting, or part of a meeting.

25. Special meetings of councils

- (1) A special meeting of a council may be called by the chairperson of the council.
- (2) A special meeting of a council is to be called by the chairperson within 48 hours after the chairperson of the council receives:
 - a. for a council with 6 to 20 members, a written request signed by a majority of the members of the council;
 - b. for a council with more than 20 members, a written request signed by at least 11 members of the council.
- (3) The chairperson of a council is to give at least 24 hours notice of a special meeting of the council to all members.
- (4) Notice of a special meeting of a council is to specify the business to be considered at the meeting.
- (5) Only business specified in the notice is to be considered at a meeting.

26. Quorum

The quorum for a meeting of a council is:

- a. for a Medical Staff Executive Council, a majority of the members;
- b. for a medical staff council with 6 to 20 members, a majority of the members of the council;
- c. for a medical staff council with more than 20 members, one tenth of the members or 11 members of the council, whichever is the greater number.

27. Minutes

The chairperson of a council, or an office bearer of the council authorised by the chairperson to do so, is to ensure that minutes are kept of all meetings of the council.

28. Smaller medical staff councils

For a council with five members or less:

- a. clauses 24-27 of the By-law do not apply;
- b. the Chief Executive, or a person authorised on his or her behalf, is to call a meeting of the council not later than seven days after receiving a written request for such a meeting from a member of the council;
- c. the Chief Executive, or a person authorised on his behalf, is to give written notice of a meeting of the council to all members and to the medical administrator of the public health organisation (however designated);
- d. the medical administrator of the public health organisation (however designated) is to be invited to attend all duly convened meetings of the council. However the council may exclude the medical administrator from any meeting, or part of a meeting, where the business under consideration relates to the conduct or performance of the medical administrator in that position;
- e. the council may invite any other person to attend any meeting of the council;
- f. the council is to ensure that minutes of a meeting of the council are kept;
- g. the quorum for a meeting of the council is a majority of its members.

Part 7 – Medical and Dental Appointments Advisory Committee

29. Establishment of Medical and Dental Appointments Advisory Committee

- (1) The Chief Executive is to establish a committee called the Medical and Dental Appointments Advisory Committee which will:

- a. provide advice, and where appropriate, make recommendations with reasons, to the Chief Executive concerning matters relating to the appointment or proposed appointment of visiting practitioners or staff specialists;
 - b. consider any application that has been referred to the Committee by the Chief Executive for:
 - i. appointment of a visiting practitioner or staff specialist; or
 - ii. proposal to appoint a person as a visiting practitioner or staff specialist.
 - c. provide advice, and where appropriate, make recommendations with reasons, to the Chief Executive concerning the clinical privileges which should be allowed to visiting practitioners, staff specialists and other dentists.
- (2) Where the Chief Executive has delegated such a function to that position, the medical administrator of the public health organisation (however designated) may appoint a visiting practitioner or staff specialist to an available position for a single period not exceeding three (3) months. However any exercise of this delegation shall be subject to the advice of the relevant Medical and Dental Appointments Advisory Committee, if the advice or recommendation of that Committee is required for that position.
- (3) The Committee may form sub-committees, whether at a hospital or otherwise, to provide advice or other assistance to enable it to perform its duties referred to in this clause.

30. Composition of Medical and Dental Appointments Advisory Committee

The Medical and Dental Appointments Advisory Committee shall be composed of:

- a. two members appointed by the Chief Executive (at least one of whom is not a medical practitioner) one of whom is to be nominated by the Chief Executive as the chairperson of the Committee;
- b. two representatives of the Council nominated by the Council to be on the Committee;
- c. the Chief Executive of the public health organisation or his nominee;
- d. the medical administrator of the public health organisation (however designated) or his/her nominee;
- e. such of the following persons (being medical practitioners or dentists) appointed by the Chief Executive as are necessary, in the Chief Executive's opinion, following consultation with the two representatives of the Council, to the proper consideration of a matter or class of matters referred to the Committee:
 - i. one representative of the public health organisation, having regard to the matter under consideration;
 - ii. one representative of an appropriate professional medical college or body whose discipline is relevant to the matter under consideration and who is not a member of the Council of the public health organisation;
 - iii. one representative of each university affiliated with the public health organisation for the purposes of the training of medical practitioners or dentists;
- f. where a matter or class of matters referred to the Committee concerns an appointment of a person as a visiting practitioner or staff specialist to a hospital or hospitals under the control of an area health service, a representative of the Medical Staff Council, if any, for each hospital to which the appointment relate and who is nominated by that Council; and
- g. where a matter or class of matters referred to the Committee concerns the clinical privileges of a visiting practitioner or staff specialist, a representative of

the Medical Staff Council, if any, for each hospital to which the appointment relates and who is nominated by that Council.

31. Term of office

- (1) A member of the Medical and Dental Appointments Advisory Committee who is nominated by the Chief Executive shall hold office for such period as the Chief Executive determines.
- (2) A member of the Medical and Dental Appointments Advisory Committee who is a representative of the Council is to hold office for such period as the Council determines.
- (3) Where a member has been appointed to, or is nominated to be on, the Medical and Dental Appointments Advisory Committee for the purpose of considering a particular matter or matters, he or she is a member only for the period or periods during which that matter or matters is under consideration by the Committee.
- (4) A member of the Medical and Dental Appointments Advisory Committee shall absent themselves from the meeting during any discussion by the Committee of the appointment or clinical privileges of that member.

32. Committee meetings

The provisions of clauses 26 and 27 (quorum and minutes) of this By-law, with necessary adaptation, are to also apply to meetings of the Medical and Dental Appointments Advisory Committee.

Part 8 – Credentials (Clinical Privileges) Subcommittee

33. Credentials (Clinical Privileges) Subcommittee

- (1) The Medical and Dental Appointments Advisory Committee is to establish at least one subcommittee called the Credentials (Clinical Privileges) Subcommittee (in this part called the “**credentials subcommittee**”) to provide advice to the Medical and Dental Appointments Advisory Committee on all matters concerning the clinical privileges of visiting practitioners or staff specialists, including the following:
 - a. the clinical privileges to be allowed to an applicant or person proposed for appointment as a visiting practitioner;
 - b. the clinical privileges to be allowed to a staff specialist on appointment;
 - c. the review of the clinical privileges of a visiting practitioner or staff specialist at the request of the visiting practitioner or staff specialist; and
 - d. the review of the clinical privileges of a visiting practitioner or staff specialist at the request of the public health organisation.
- (2) Any matter concerning the clinical privileges of any person:
 - a. who is appointed as a staff specialist or a visiting practitioner; or
 - b. who the Medical and Dental Appointments Advisory Committee is considering recommending for appointment as a staff specialist or a visiting practitioner is to be referred to the credentials subcommittee for advice.
- (3) In considering all matters concerning clinical privileges the credentials subcommittee is to have regard to the delineated role of the relevant health facility approved by the Department.

34. Composition of the credentials subcommittee

- (1) The credentials subcommittee is to consist of:
 - a. at least two members of the Medical and Dental Appointments Advisory Committee who are medical practitioners or dentists, nominated by the Medical and Dental Appointments Advisory Committee; and

- b. any other medical practitioners or dentists appointed by the Medical and Dental Appointments Advisory Committee who that Committee considers are necessary to consider the matter or matters referred to the credentials subcommittee for advice.
- (2) The Medical and Dental Appointments Advisory Committee is to nominate one of the persons under subclause (1)(a) as chairperson of the credentials subcommittee.
- (3) In appointing members of the credentials subcommittee under subclause (1)(b), the Medical and Dental Appointments Advisory Committee is to ensure that the appointments are consistent with any Departmental guidelines, Policy Directives or Information Bulletins relating to the delineation of clinical privileges and/or the composition of the credentials subcommittee.

35. Term of Office

A member appointed to or nominated to be on the credentials subcommittee, for the purpose of considering a particular matter or matters, is a member for the period or periods during which the matter or matters is considered by the subcommittee.

36. Committee meetings

The provisions of clauses 26 and 27 (quorum and minutes) of this By-law, with necessary adaptation, are to also apply to meetings of the credentials subcommittee.

Part 9 – Rules

The Chief Executive may make rules for the proper functioning of the public health organisation. These rules should not be inconsistent with the Act, the associated regulations and this By-law.

Dictionary

Explanatory Notes

Certain words and phrases used in the by-law are 'defined' in the dictionary. These largely repeat those used in the Health Services Act so that the use of such words in the by-law is consistent with the Act.

Act	means the Health Services Act 1997.
Chief Executive	means respectively the chief executive of an area health service or statutory health corporation as applicable.
clinical privileges	means the kind of clinical work (subject to any restrictions) that the public health organisation determines the visiting practitioner or staff specialist is to be allowed to perform at any of its hospitals or health services.
council	means a Medical Staff Executive Council or a medical staff council as applicable.
dentist	means a person registered, or taken to be registered, as a dentist under the Dental Practice Act 2001.
Department	means the Department of Health, and departmental has an equivalent meaning.
executive staff	means the persons appointed by the public health organisation to its management structure and any persons appointed to act for the time being in those positions.
health service	means any of the following a. any hospital service, b. any medical service, c. any paramedical service, d. any community health service, e. any environmental health service f. any other service (including any service of a class or description prescribed by the regulations) relating to the maintenance or improvement of the health, or the restoration of health, of persons or the prevention of disease in or injury to persons.
hospital	means an institution at which relief is given to sick or injured people through the provision of care or treatment.
medical practitioner	means a person who is registered, or taken to be registered under the Medical Practice Act 1992.
public health organisation	means a. an area health service, or b. a chief executive governed statutory health corporation as applicable.
public hospital	means a hospital controlled by an area health service or a statutory health corporation.
regulations	means the regulations made under the Act.
staff specialist	means a medical practitioner employed by the public health organisation as a staff specialist under the Salaried Senior Medical Practitioners (State) Award.
visiting practitioner	means a medical practitioner or dentist who is appointed by a public health organisation (otherwise than as an employee) to practice as a medical practitioner or dentist in accordance with such conditions of appointment at any of its public hospitals or health services as may be specified in an appointment agreement.

