

## **Candidate Information on the Terms and Conditions of Appointment to Te Kaunihera Rata o Aotearoa Medical Council of New Zealand**

### **Introduction**

From time to time the Ministry of Health will invite applications for appointment to Te Kaunihera Rata o Aotearoa Medical Council of New Zealand (Council). This document is provided by the Ministry to provide information for prospective candidates for appointment to that Council. It sets out the:

- Role and functions of the Council
- Composition of the Council
- Terms and conditions of appointment
- Duties and responsibilities of a member.

### **Role of regulatory bodies in regulating health practitioners**

Professional regulation plays a key role in providing members of the public with assurance of a health practitioner's competence and fitness to practise. It ensures that only practitioners who have demonstrated that they qualified, competent and fit for entry to a profession can practise. Appropriate regulation ensures that practitioners maintain high standards of competence throughout their careers, and provides mechanisms to address any issues of poor practice or conduct.

In New Zealand, this framework is provided under the Health Practitioners Competence Assurance Act 2003 (the Act). The purpose of the Act is to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent to practise their professions.

### **Functions of the Council**

To fulfil the Act's purpose and to implement the mechanisms provided, the Act establishes a number of profession-specific regulatory authorities, responsible, in total, for more than 20 health professions. Te Kaunihera Rata o Aotearoa Medical Council of New Zealand is one of these authorities.

The functions of the Council are formally set out under section 118 of the Act. As they apply to doctors, these include:

- (a) Prescribing the qualifications required for scopes of practice within the medical profession, and, for that purpose, accrediting and monitoring educational institutions and degrees, courses of studies, or programmes.
- (b) Authorising the registration of doctors and maintaining a register.
- (c) Considering applications for annual practising certificates referred to it.
- (d) Reviewing and promoting the competence of doctors.
- (e) Recognising, accrediting, and setting programmes to ensure the ongoing competence of doctors.
- (f) Receiving information from any person about the practice, conduct, or competence of health practitioners and, if it is appropriate to do so, acting on that information.

- (g) Notifying employers, the Accident Compensation Corporation, the Director-General of Health, and the Health and Disability Commissioner whenever a doctor's practice may pose a risk of harm to the public.
- (h) Considering the cases of doctors who may be unable to perform the functions required for medical practice.
- (i) Setting standards of clinical competence, cultural competence (including competencies that will enable effective and respectful interaction with Māori), and ethical conduct to be observed by doctors.
- (j) Liaising with other authorities appointed under the Act about matters of common interest.
- (k) Promoting and facilitating inter-disciplinary collaboration and co-operation in the delivery of health services
- (l) Promoting education and training in the medical profession.
- (m) Promoting public awareness of the Council's responsibilities.

### **Composition of the Council**

The membership of Council comprises both medical members and lay members. Members have a range of experience, from first-time appointees with little or no experience as a member of such authorities to members with extensive experience. The Council draws considerable benefits from having a diverse membership with a range of skills, attributes, and experience.

All members of the Council are appointed by the Minister of Health. Under section 120 of the Act, the Council must have at least five members, and may have up to 14 members. Membership must include:

- a majority of members who are health practitioners
- two laypersons, if the Council has at any time eight or fewer members
- three laypersons, if the Council has at any time nine or more members.

The Council generally comprises eight medical practitioner members (four of whom are elected by the medical profession for nomination to the Minister) and four lay members.

### **Terms and conditions of appointment**

The Minister of Health appoints members of the Council for a term of up to three years, by notice published in the *Gazette*. Members may from time to time be reappointed, but no person is eligible to be a member for more than nine consecutive years.

Members may resign, at any time, by giving notice to the Minister of Health. Members will be considered to have vacated their office if they are adjudged bankrupt under the Insolvency Act 2006.

The Minister of Health may also remove a member from office, -

1. On the grounds of:
  - (a) inability to perform the duties of the office
  - (b) neglect of duty
  - (c) misconduct, proved to the satisfaction of the Minister; or
2. With the concurrence of the Council, on the ground that the member's performance on the Council is inadequate.

### **Duties and responsibilities of Council members**

This section sets out the Minister of Health's expectations of members in their execution of the duties and responsibilities as appointees to the Council. This is intended to aid members of the

Council by setting out a set of principles for appropriate conduct and behaviour to be applied by all members.

As an independent statutory body, the Council has an obligation to conduct its activities in an open and ethical manner. The Council has a duty to operate in an effective and consistent manner in carrying out its functions. It must also satisfy the standards for good administrative practice, including the principles of natural justice, in its processes and decision-making. Applying these principles will also help protect the Council and its members from exposure to legal challenge.

### **Te Tiriti o Waitangi**

Council has agreed that ‘we will achieve our vision, deliver on our purpose, uphold the mana of Te Tiriti o Waitangi, and be a sustainable organisation, through our Strategic Priorities’ (Te Mahere Rautaki, Council’s Strategic Plan, 2021-2025). Building on earlier work in cultural safety, partnership and health equity, Council currently has a Te Tiriti o Waitangi Framework under development in order to meet this aim.

This framework will shape and align all of Council’s work to ensure responsiveness to Te Tiriti, and lead us as we enhance our work in developing cultural safety both internally and within the profession, in advancing the equity of health outcomes for Māori and for other groups, and in addressing interpersonal, institutional and systemic bias and discrimination both in our systems and within the profession and its environments.

This workstream will be overseen by Te Kāhui Whakamana Tiriti, a high-level group in partnership between Council and Te Ohu Rata o Aotearoa (Te ORA), the Māori Medical Practitioners Association. Council acknowledges the relationship it has with manawhenua, and seeks appropriate alignment of its expression of te ao Māori.

### **Council values**

The Council is a values-based organisation. Council members are expected to lead by example on demonstrating these values.

- Kotahitanga ‘We are a team.’ *Great things happen when we are unified.*
- Manaakitanga - ‘We support each other.’ *Our environment is inclusive, diverse and respectful.*
- Whakapono ‘We act with integrity.’ *Honesty and transparency are at the heart of everything we do.*
- Kaitiakitanga ‘We protect the public.’ *Our primary purpose is to protect the public.*
- Whakamārama ‘We lead by listening.’ *Always learning, forever innovating.*

### **General**

Council members have a commitment to work for the public of New Zealand, by ensuring there are competent, safe and effective medical practitioners. Members are accountable to the Minister of Health (and, through the Minister, to the public of New Zealand).

Members are expected to commit time to becoming familiar with the affairs of the Council and the wider environment within which it operates. It is important that Council members have a common understanding of their role as members so decisions can be reached within the spirit of the governing legislation, protecting public health and safety, through the regulation of doctors.

Council members attend meetings and undertake Council activities as independent persons responsible to the Council as a whole and are not representatives of professional organisations or

communities. This issue is particularly important when Council members may, at times, be required to be party to decisions which conflict with the views of other organisations with which they are involved.

Council members are free to express their own views within the context of Council meetings, or the general business of the Council. Council members must, however, publicly support any course of action decided by the Council, or decision made by the Council.

### **Conflicts of Interest**

Council members must perform their functions in good faith, honestly and impartially and avoid situations that might compromise their integrity or otherwise lead to conflicts of interest. When members believe they have a conflict of interest on a subject which will prevent them from reaching an impartial decision or undertaking an activity consistent with the Council's functions, they must declare a conflict of interest or absent themselves from the discussion and/or activity.

### **Obligation to satisfy statutory, procedural and natural justice obligations**

When carrying out its functions, the Council and its members must follow the principles of natural justice and administrative law. The Council must act lawfully, and within the scope of its powers as set out in the Health Practitioners Competence Assurance Act 2003, the Misuse of Drugs Act 1975, and the Medicines Act 1981.

The Council must also act fairly when carrying out its functions. Decisions of the Council are reviewable by the Courts and it is also possible for persons to take civil action against the Council, or its individual members. Members are excluded from liability if acting in good faith and with reasonable care. Each member will be provided with detailed guidelines that describe how the Council and its members can adhere to the principles of natural justice and administrative law.

### **Relevant legislation**

Council members will be expected to become familiar with, and operate according to, the:

- Health Practitioners Competence Assurance Act 2003
- Health and Disability Commissioner Act 1994
- Code of Health and Disability Services Consumers' Rights
- Privacy Act 2020
- Health Information Privacy Code 1994
- New Zealand Bill of Rights Act 1990
- Human Rights Act 1993

### **Meetings of the Council**

Council members must make every effort to attend all Council meetings and may be required to serve on several Council committees or working groups.

Currently, the Council holds formal two-day meetings every two months. There are also up to five reserve days (which includes an annual planning day) that are used each year. In addition, members will be required to meet to participate on committees established to address specific issues. It's estimated that members will spend up to 35-45 days per annum on Council business, including preparation for meetings of the Council and committees and attending meetings or conferences with external bodies.

### **Confidentiality**

Meetings, including agenda material and minutes, of the Council are confidential. Council members must ensure that the confidentiality of Council business is maintained.

Council members must not divulge details of Council matters or decisions of the Council to persons who are not Council members. They must also ensure that Council documents are kept securely to ensure the confidentiality of Council work is maintained. Release of Council correspondence or papers can only be made with the approval of the Council. At the end of a member's term all Council information must be returned to the office

### **Fees and Allowances**

Members of the Council, and of any committee appointed by the Council, are paid fees for attendance at meetings. The fee for Council members is currently **\$1,000** per day and **\$125** per hour (before tax) and this is reviewed annually. Members will also be paid actual and reasonable meeting preparation time at the daily fee and pro rata. The Council meets the cost of travel, accommodation and meals within specified administrative arrangements.

### **Orientation and induction**

The Council provides an extensive induction manual and organises induction sessions for all new members. The manual includes a role description for members, a code of conduct, confidentiality agreement and policies on the operation of the Council and committees.

More detailed information can be obtained from:

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