Healthscope

Hospital By-Laws

Commencement

3rd July 2024

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BACKGROUND

1 Healthscope is a leading national private hospital operator and healthcare provider, offering world-class patient care, including medical and surgical services, mental health treatment and rehabilitation services.

2 Healthscope is Australia's only national private hospital operator, with 38 hospitals across all states and territories. At the time of commencement of these By-Laws, Healthscope employs nearly 19,000 people, partners with more than 17,500 accredited medical practitioners, provides about 650,000 admissions and provides nearly 200,000 emergency room presentations.

THESE BY-LAWS

What are these By-Laws?

3 The quality of health care and the safety of Patients is central to the services provided by Healthscope. This involves a mutual commitment from Healthscope, its clinical workforce and Accredited Practitioners.

4 These By-Laws are created by Healthscope to support the clinical governance framework for Medical Practitioners and Dentists who are appointed and provide services to Patients of Healthscope through what is known as a Credentialing process. If successful, this will result in the grant of Accreditation with an approved Scope of Practice.

5 These By-Laws are in place at every Healthscope Company that owns, operates or manages a Healthscope Hospital (except Northern Beaches Hospital, which has separate By-Laws).

6 These By-Laws apply to all Medical Practitioners and Dentists who are Accredited at a Healthscope Hospital to provide services and undertake care for a Patient (except in relation to Accreditation held at Northern Beaches Hospital, which has separate By-Laws), including services and care of a Patient:

6.1 of Healthscope;

6.2 to or from a Healthscope Hospital;

6.3 to or from a health service managed by Healthscope or a Healthscope Hospital;

6.4 on behalf of a service provider that provides services to Healthscope or a Healthscope Hospital;

6.5 from premises owned, leased, sub-leased or licensed on a sessional basis by or from Healthscope or a Healthscope Hospital, but only with respect to By-Laws 228, 231.1.2 to 231.1.5, 231.2 to 231.5, 236 to 238 and 256 - 266; or

6.6 at consulting rooms or other space that is rented, leased or subject to some other arrangement with Healthscope or a Healthscope Hospital, but only with respect to By-Laws 228, 231.1.2 to 231.1.5, 231.2 to 231.5, 236 to 238 and 256 - 266 .

Note: Application of the By-Laws to these settings in By-Laws 6.4 to 6.6 does not automatically mean that a legal duty of care extends to the Healthscope Hospital or Patient in relation to matters arising in these settings, as this is a separate and distinct issue.

7 The By-Laws set out the nature of the relationship with Accredited Practitioners, the scope of that Accreditation (otherwise referred to as Scope of Practice), entitlements arising from Accreditation, entitlements that do not arise from Accreditation and conditions that must be accepted by an Accredited Practitioner as a consequence of accepting Accreditation.

8 There is no right entitling a Medical Practitioner or Dentist to be appointed at a Healthscope Hospital, to maintain Accreditation at a Healthscope Hospital, or to receive Re-Accreditation at a Healthscope

Hospital. There are benefits for a Medical Practitioner or Dentist being appointed at a Healthscope Hospital. In addition, there are terms, conditions and obligations attaching to Accreditation. Non-compliance with any of the terms, conditions and obligations may trigger a review process, a Re-Accreditation not being offered, and/or imposition of Special Conditions, Suspension of Accreditation or Termination of Accreditation.

9 The By-Laws are supplemented by a suite of terms of reference, forms, policies, procedures, protocols and other supporting documents issued by Healthscope or a Healthscope Hospital. These form part of the By-Laws and require compliance in the same way as if they were included in the By-Laws.

10 Responsibilities and decisions set out in these By-Laws may also be undertaken by a person who is:

10.1 a member of the Board who is making a decision pursuant to these By-Laws on behalf of the entire Board;

10.2 acting in a specific role referred to in these By-Laws;

10.3 delegated in writing the responsibility or decision referred to in these By-Laws;

10.4 the State Manager, with respect to a specific responsibility or decision of the General Manager of a Healthscope Hospital located in the State or Territory for which the State Manager is responsible, if the delegation is approved by the Chief Medical Officer (orally or in writing);

10.5 performing a responsibility within their scope of employment or duties that requires addressing one of the matters referred to in the general conditions of Accreditation or clinical responsibilities referred to in these By-Laws.

What are the Purposes of these By-Laws?

11 These By-Laws:

11.1 maintain and improve the safety and quality of services at Healthscope Hospitals;

11.2 protect Healthscope Hospitals and their Accredited Practitioners by ensuring that the environment in which hospital and medical services are delivered supports and facilitates both safety and quality;

11.3 define the relationship between a Healthscope Hospital and its Accredited Practitioners; and

11.4 assist in compliance with Commonwealth and State laws, regulations and standards, including those promulgated by the Australian Commission for Safety and Quality in Health Care.

Paramount Considerations

12 In making decisions and acting pursuant to these By-Laws, including the weighing of factors:

12.1 the quality of health care and the safety of Patients; and

12.2 the safety and wellbeing of Healthscope staff;

will be the paramount considerations.

Scope, Purpose and Basis of Relationship

13 All Medical Practitioners and Dentists will be required to hold a current Accreditation at one or more Healthscope Hospitals or services and must comply with the By-Laws.

14 All Accreditation will include a defined Scope of Practice.

15 Accreditations will be assessed against the Credentialing requirements, and according to Organisational Capability and Organisational Need of the particular Healthscope Hospital.

16 In considering the relationship between Healthscope and an Accredited Practitioner, these By-Laws do not of themselves:

16.1 create a contractual or employment relationship, or any implied contractual terms, between Healthscope or the Healthscope Hospital and any Accredited Practitioner; or

16.2 confer on any Accredited Practitioner any legally enforceable right, or create in any Accredited Practitioners any legitimate expectation, in relation to any matter or thing referred to in the By-Laws.

17 The following principles and requirements apply to and form the basis of the relationship between Healthscope, a Healthscope Hospital and an Accredited Practitioner:

17.1 these By-Laws will take effect and supersede any previous published version. Unless determined otherwise by the Board in the circumstances of a particular case, the By-Laws will be operational and effective regardless of when an issue or circumstance arose (for example, action may be taken under the current By-Laws for matters that occurred at a time previous to the date that the By-Laws were in place);

17.2 the granting of Accreditation affords the Accredited Practitioner the ability to provide services at the Healthscope Hospital, within an approved Scope of Practice, which at all times will be subject to the terms and conditions of the By-Laws and any associated terms of approval of the Accreditation;

17.3 conferral of Accreditation results in a conditional non-contractual license to enter the Healthscope Hospital and provide services, in accordance with the terms of approval given. It provides the Accredited Practitioner with an ability on each occasion to make a request for access to the Healthscope Hospital for the treatment and care of a Patient, within the limits of the Accredited Practitioner's Scope of Practice, and to utilise the Healthscope Hospital and its resources for that purpose. This will at all times be subject to the provisions of the By-Laws, Healthscope and Healthscope Hospital policies, resource limitations, Organisational Need and Organisational Capability;

Note: 'Conditional license' is a legal term that in this context means the permission granted on a non-exclusive basis by a Healthscope Hospital to an Accredited Practitioner, who is carrying out their own independent practice, to attend the premises of Healthscope or the Healthscope Hospital, to utilise appropriate resources of Healthscope or the Healthscope Hospital, and to provide services to Patients of Healthscope or the Healthscope Hospital, subject at all times to the terms and conditions set out in the By-Laws and the approval of Accreditation. This permission may be withdrawn in accordance with the By-Laws.

17.4 the decision to grant access to the Healthscope Hospital or particular resources for the treatment and care of a Patient is on each occasion within the sole discretion of the General Manager of the Healthscope Hospital, with there being no appeal pursuant to these By-Laws from such a decision;

17.5 accreditation does not give an Accredited Practitioner any right or entitlement to, or guarantee of, admission, any level of availability of bed access, allocation of operating / procedure session time, allocation of any Patient or entitlement to any roster, with these decisions within the sole discretion of the General Manager of the Healthscope Hospital, with there being no appeal pursuant to these By-Laws from such a decision;

17.6 the General Manager of the Healthscope Hospital retains a right of refusal for a particular admission, treatment, use of resources or particular Patient, and also with respect to the

Accredited Practitioner's attendance at the premises of the Healthscope Hospital, with there being no appeal pursuant to these By-Laws from such a decision;

17.7 accreditation is personal and cannot be transferred to, or exercised by, any other person.

18 A condition of granting and accepting Accreditation, and of ongoing Accreditation, is that the Accredited Practitioner understands and agrees that:

18.1 the nature of the relationship is as set out in By-Laws 16 and 17;

18.2 these By-Laws (including any other documents referenced in the By-Laws) are the full extent of processes and procedures available to them with respect to all matters relating to and impacting upon Accreditation;

18.3 no additional procedural fairness or natural justice principles will be incorporated or implied, other than processes and procedures that have been explicitly set out in these By-Laws;

18.4 the By-Laws apply from the time of granting of Accreditation, regardless of whether they were read by the Accredited Practitioner;

18.5 amendments to the By-Laws apply from the time of approval by the Board, regardless of whether they were read by the Accredited Practitioner; and

18.6 while Healthscope and the Healthscope Hospital (including decision-makers of Healthscope and the Healthscope Hospital) will generally conduct themselves in accordance with these By-Laws, they are not legally bound to do so and there are no legal consequences for not doing so.

19 Where an obligation is placed upon an individual under these By-Laws and the individual is an employee of Healthscope or the Healthscope Hospital, then by virtue of the terms of employment that obligation may be satisfied under the terms of employment of that individual (for example, requirements relating to indemnification and insurance).

20 The By-Laws will apply to Dentists, where applicable, substituting Dentist for Medical Practitioner, and the balance of the By-Laws including the terms and conditions will apply to Dentists, other than any terms and conditions that by their interpretation or application can only be applied to a Medical Practitioner.

21 The By-Laws may also be utilised for other Health Practitioners on a case by case basis, as determined by the General Manager, with the processes as modified by the General Manager to suit the particular circumstances of the case. If utilised for this purpose, the balance of the By-Laws including the terms and conditions will apply to the Health Practitioner, other than any terms and conditions that by their interpretation or application can only be applied to a Medical Practitioner or Dentist.

How Are These By-Laws Changed?

22 These By-Laws are replaced or changed by a decision of the Board.

23 Every change to these By-Laws takes effect from the time of decision by the Board or a subsequent date stated in the decision of the Board.

24 Changes to the obligations set out in the By-Laws do not have retrospective effect unless the Board specifically decides otherwise.

How to Read these By-Laws

25 Certain words and expressions in these By-Laws are capitalized to indicate a special meaning, as follows:

25.1 **Accreditation** means the formal process provided for in these By-Laws by which a Medical Practitioner or Dentist is permitted to provide services at a Healthscope Hospital or health service, following an assessment of Credentials and having satisfied the Credentialing and Scope of Practice requirements in these By-Laws. This includes meeting requirements of Organisational Capability and Organisational Need. The process serves to verify and assess the qualifications, experience, professional standing and other relevant professional attributes of practitioners for the purpose of forming a view about their Competence, performance, Current Fitness and professional suitability to provide safe, high-quality health care services within a specific Healthscope Hospital or health service.

25.2 **Accreditation Period** means the duration of Accreditation specified in a notification of Accreditation.

25.3 **Accredited Practitioner** means a Medical Practitioner or Dentist accredited by a Healthscope Hospital pursuant to these By-Laws. Accreditation as an Accredited Practitioner under these By-Laws is a prerequisite to provide services at Healthscope and a Healthscope Hospital.

25.4 **AHPRA** means the Australian Health Practitioner Regulation Agency.

25.5 **Appropriate Professional Indemnity Insurance Arrangements** means insurance to cover all potential liability of the Accredited Practitioner and any employees or agents of the Accredited Practitioner, for all potential liability arising during the period of Accreditation (even if a claim were to be made following the conclusion of Accreditation), that is with a reputable insurance company acceptable to Healthscope, in an amount and on terms that Healthscope considers in its absolute discretion to be sufficient. For a Medical Practitioner this will at a minimum include professional indemnity insurance in the amount of $20 million for each and every claim. The insurance must be adequate for Scope of Practice, specialty and level of activity.

25.6 **Behavioural Standards** means standards of conduct and behaviour expected of an Accredited Practitioner arising from personal interactions, communication and other forms of interaction with other Accredited Practitioners, clinical workforce of the Healthscope Hospital and Healthscope, Board, executive of a Healthscope Hospital, third party service providers, Patients, family members of Patients and others. The minimum standard required of Accredited Practitioners to meet the behavioral standards includes compliance with the requirements set out in the Healthscope behaviour policies and codes of conduct (including the Healthscope Code of Conduct), and the expectations set out in the Good Medical Practice: A Code of Conduct for Doctors in Australia (as applicable).

25.7 **Bias or Biased** means a person that a fair-minded lay observer, cognisant of all of the facts, might reasonably apprehend might not bring an impartial and unprejudiced mind to the issues that the person is required to decide or consider.

25.8 **Board** means the Board of Healthscope or a member of the Board of Healthscope acting on behalf of the Board in making a decision pursuant to these By-Laws.

25.9 **By-Laws** mean these By-laws and where a "Note" has been included in the By-Laws, these Notes form part of the By-Laws and require compliance.

25.10 **Chief Medical Officer** means the person designated by the Board to hold that title and to perform senior functions in clinical management.

25.11 **Clinical Practice** means the professional activity undertaken by Accredited Practitioners for the purposes of investigating Patient symptoms and preventing and/or managing illness, together with associated professional activities related to clinical care.

25.12 **Competence (including Competently)** means in respect of a Medical Practitioner or Dentist, that the person is assessed to have the required knowledge, skills, training, decision-making ability, judgment, insight and interpersonal communication necessary for the Scope of Practice for which the person has applied (or been granted) and has the demonstrated ability to provide health services at an expected level of safety and quality.

25.13 **Credentialing** in respect of an applicant for Accreditation or Re-Accreditation, is the formal process used to match the skills, experience and qualifications to the roles and responsibilities of that position. This will include actions to verify and assess the applicant's Credentials, including the identity (to the required level of identity specified in any relevant policy and procedure, which will be a minimum 100 points), education, formal qualifications, equivalency of overseas qualifications, post-graduate degrees/awards/fellowships/certificates, professional training, continuing professional development, professional experience, recency of practice, maintenance of clinical competence, and other skills/attributes (for example in leadership, research, education, communication, teamwork), good standing, declaration of relevant matters and issues, for the purpose of forming a view about the applicant's Competence, Performance, Current Fitness and professional suitability to provide safe, high quality health care to the standard required by Healthscope and with respect to the Scope of Practice sought.

25.14 **Credentialing Committee** means a committee so named created pursuant to these By-Laws at a Healthscope Hospital performing functions as specified in these By-Laws.

25.15 **Credentials** in respect of an applicant for Accreditation or Re-Accreditation, is the identity (to the required level of identity specified in any relevant policy and procedure, which will be a minimum 100 points of verification), education, formal qualifications, equivalency of overseas qualifications, post-graduate degrees/awards/fellowships/certificates, professional training, continuing professional development, professional experience, recency of practice, maintenance of clinical competence, other skills/attributes (for example in leadership, research, education, communication, teamwork), good standing, and declaration of relevant matters and issues, that contribute to the person's Competence, Performance, Current Fitness and professional suitability to provide safe, high quality healthcare. The applicant's history of and current status with respect to Clinical Practice and outcomes at the Healthscope Hospital during prior periods of Accreditation, disciplinary actions, Professional Conduct, By-Law actions, compensation claims, complaints and concerns – clinical and behavioural, professional registration and Appropriate Professional Indemnity Insurance Arrangements are relevant to credentials.

25.16 **Current Fitness** is the current fitness required of an Accredited Practitioner to carry out the Scope of Practice sought or currently held. Subject to compliance with relevant legislative and other legal requirements, a person is not to be considered as having current fitness if that person suffers from a physical or mental impairment, restriction, limitation, disability, condition, disorder or deterioration (including due to alcohol or drugs) which detrimentally affects, is likely to detrimentally affect or presents a reasonable risk of impacting on, the person’s capacity to provide health services at the expected level of safety and quality for the relevant Scope of Practice.

25.17 **Dentist** means a person who is registered by AHPRA as a dental practitioner pursuant to the *Health Practitioner Regulation National Law*.

25.18 **Director of Nursing** means a person who is known by that title or similar (for example, Director of Clinical Services) and who is employed or otherwise contracted to carry out this role at a Healthscope Hospital.

25.19 **General Conditions** means the conditions of Accreditation applying to all Accredited Practitioners that are set out in the By-Laws.

25.20 **General Manager** means a person who is known by that title and who is employed or otherwise contracted to manage a Healthscope Hospital.

25.21 **Health Practitioner** means a person who practices as a health professional and is registered by AHPRA under the *Health Practitioner Regulation National Law*.

25.22 **Healthscope** means Healthscope Operations Pty Ltd (ACN 006 405 152).

25.23 **Healthscope Company (or Companies)** means Healthscope and its related entities.

25.24 **Healthscope Hospital** means any acute, sub-acute, rehabilitation or psychiatric health care facility (inpatient or ambulatory care) operated or managed within Australia by a Healthscope Company.

25.25 **Medical Advisory Committee (MAC)** means a committee so named, created pursuant to these By-Laws, at a Healthscope Hospital performing functions as specified in these By-Laws.

25.26 **Medical Practitioner** means a person who is registered as a medical practitioner by AHPRA pursuant to the *Health Practitioner Regulation National Law*.

25.27 **Organisational Capability** means the Healthscope Hospital's ability to provide the facilities, services, clinical and non-clinical support necessary for the provision of safe, high quality clinical services, procedures or other interventions. Organisational capability will be determined by consideration of, but not limited to, the availability, limitations and/or restrictions of the services, clinical workforce (including qualifications and skill-mix), facilities, equipment, technology and support services required, as well as licensing requirements and service capability limitations / restrictions.

25.28 **Organisational Need** means the extent to which the Healthscope Hospital considers it necessary to provide a specific clinical service, procedure or other intervention, or elects to provide additional resources to support expansion of an existing clinical service, procedure or other intervention, to provide a balanced mix of safe, high quality health care services that meet the Healthscope Hospital, consumer and community needs and aspirations. Organisational need may be determined by factors including, but not limited to, the allocation of limited resources, available operating theatre lists, necessity for additional Specialists in a particular specialty area, lack of need for additional Specialists in a particular specialty area, funding, the strategic direction of Healthscope and the Healthscope Hospital, clinical services plans, business and operational plans and any applicable clinical service capability framework.

25.29 **Patient** means a patient admitted to or receiving services from a Healthscope Hospital, extends to an outpatient or community setting, and includes a patient preparing to be admitted or receive services and a patient who has previously been admitted or who has already received services.

25.30 **Performance** means the extent to which an Accredited Practitioner provides health care services Competently and in a manner which is consistent with known good Clinical Practice and Professional Conduct expectations at Healthscope.

25.31 **Professional Conduct** means behaving in a way that promotes professional and personal integrity that is consistent with relevant behaviour policies and codes of conduct and supports the approach to meeting Behavioural Standards at Healthscope.

25.32 **Re-Accreditation** means the process provided in these By-Laws by which a person who currently holds Accreditation may apply for and be considered for another period of Accreditation following conclusion of the previous term of Accreditation.

Note: If an applicant previously held Accreditation, but does not currently hold Accreditation, the applicant will be regarded as a new applicant and the application will not be regarded as Re-Accreditation.

25.33 **Scope of Practice** means the extent of an individual Accredited Practitioner's permitted Clinical Practice within the Healthscope Hospital, that is assessed and documented in writing, based on the individual's Credentials, Competence, Performance, Current Fitness, professional suitability, Organisational Capability and Organisational Need, to support the Accredited Practitioner's scope of practice.

25.34 **Special Conditions** means any individual conditions of Accreditation imposed by a General Manager on an Accredited Practitioner's Accreditation.

25.35 **Specialist** means a Medical Practitioner with an Australian fellowship or equivalent post-graduate qualification approved by the Australian Medical Council and who is eligible for specialist recognition pursuant to the *Health Insurance Act 1973* (Cth) and associated regulations.

25.36 **Support Person** means a person attending to support an Accredited Practitioner in relation to any matter pursuant to these By-Laws, at the request of and with consent of the Accredited Practitioner. A Support Person is present solely for the purpose of providing support to the Accredited Practitioner, and if a lawyer or holding a law degree that person cannot participate in the capacity as a legal representative nor advocate at the meeting.

25.37 **Suspension** (includes **Suspended**) means a temporary pause of an Accredited Practitioner's Accreditation triggered by these By-Laws, during which the Accredited Practitioner cannot attend Healthscope or a Healthscope Hospital premises (unless specific permission is provided by the Chief Medical Officer, General Manager or delegate), cannot undertake Clinical Practice, cannot exercise Scope of Practice, cannot provide services at Healthscope and cannot be involved in the care of Healthscope Hospital Patients (including not providing instructions or supervision to others).

25.38 **Temporary Accreditation** means the temporary authorisation to treat Patients at a Healthscope Hospital in accordance with these By-Laws

25.39 **Termination (**includes **Terminated**) means the conclusion of an Accredited Practitioner's Accreditation at Healthscope triggered by these By-Laws, the consequence of which is that the Accredited Practitioner is no longer an Accredited Practitioner, cannot attend Healthscope or Healthscope Hospital premises for Patient care, cannot undertake Clinical Practice, cannot exercise Scope of Practice, cannot provide services at Healthscope and cannot be involved in the care of Healthscope Hospital Patients (including not providing instructions or supervision to others).

25.40 **Undertaking** means a written agreement by an Accredited Practitioner to do and/or not to do something.

MEDICAL ADVISORY COMMITTEES

Creation of a Medical Advisory Committee

26 The General Manager of each Healthscope Hospital must create and maintain a Medical Advisory Committee at that Healthscope Hospital, with terms of reference in place that apply to that Medical

Advisory Committee (either specifically, or to a Healthscope Hospital in that particular State or Territory, or by national application through a Healthscope national requirement).

27 A Medical Advisory Committee (including every sub-committee of it) is an advisory committee to the General Manager of the Healthscope Hospital, including making recommendations to the General Manager of the Healthscope Hospital, with terms of reference in place to ensure clarity of purpose and expectations.

Note: The Medical Advisory Committee is not a decision-making body for or on behalf of Healthscope or the Healthscope Hospital.

28 A Medical Advisory Committee (including any sub-committee such as the Credentialing Committee) has the powers, authorities and responsibilities as set out in these By-Laws, the endorsed Medical Advisory Committee terms of reference as customised for the particular Healthscope Hospital by the General Manager (which will incorporate local jurisdiction requirements), and is at all times subject to and must comply with the requirements of legislation and regulations in the particular State or Territory where that Healthscope Hospital is located.

Purposes and Functions of a Medical Advisory Committee

29 The purposes of a Medical Advisory Committee are to:

29.1 provide advice and recommendations to the General Manager;

29.2 advise the General Manager on the clinical and related issues placed before it, including policies and procedures, with a view to best-practice clinical governance and improvement of Patient quality and safety;

29.3 inform and advise the General Manager in relation to:

29.3.1 services to meet the health needs of the community;

29.3.2 continually assessing the capacity of the Healthscope Hospital to provide safe, Patient-centred and appropriate health services to Patients of the Healthscope Hospital, including policies, procedures and protocols related to these matters;

29.3.3 optimising the delivery of Patient care, based on both research and current best practice, including to actively encourage and advance continuous quality improvement and other activities aimed at better Patient care;

29.3.4 establishing and maintaining mechanisms to continually evaluate, monitor and improve clinical care and Patient safety across the Healthscope Hospital services and for each specialty (or assisting the Healthscope Hospital with its systems and processes relating to these matters), and subsequently ensuring those mechanisms are operational and either directly or through sub-committees carrying out monitoring of the outcomes from these mechanisms;

29.3.5 establishing and maintaining a mechanism for formally reviewing clinical outcomes (specific cases and overall statistics), incidents (including SAC1, sentinel events), adverse outcomes of Accredited Practitioners (including by a peer review process), Competence of Accredited Practitioners and Performance of Accredited Practitioners (or assisting the Healthscope Hospital with any of its systems and processes relating to each of these matters), and subsequently ensuring those mechanisms are operational and either directly or through sub-committees monitoring of the outcomes from these mechanisms;

29.3.6 specific Accredited Practitioner, medical or Patient care issues raised by the General Manager or an Accredited Practitioner;

29.3.7 introducing new surgical and medical procedures within the Healthscope Hospital;

29.3.8 proposals for research and clinical trials to be performed at the Healthscope Hospital;

29.3.9 medical policy and matters affecting Patient care;

29.3.10 medical workforce issues and medical requirements of the Healthscope Hospital;

29.3.11 efficient and equitable use of Healthscope Hospital resources, including to actively encourage and advance the efficient and better use of resources;

29.3.12 compliance with the *Health Practitioner Regulation National Law*;

29.3.13 seeking and responding to feedback from Accredited Practitioners regarding the performance of the Medical Advisory Committee and sub-committees;

29.3.14 other matters referred to it by the General Manager.

29.4 support high standards of clinical care and Patient safety at the Healthscope Hospital and by each Accredited Practitioner at that Healthscope Hospital, through established processes of monitoring and review to support this objective, including through sub-committees and craft groups, and providing notifications and recommendations to the General Manager about these matters and any identified issues of concern;

Note: The terms of reference applicable to the specific Medical Advisory Committee (as well as subcommittees and craft groups) will include any local jurisdictional, legislative, regulatory and Department of Health obligations or requirements. This may include any requirements for review and recommendations relating to clinical incidents, adverse outcomes, deaths, MET calls, transfers out to another hospital and open disclosure, and oversight of mandatory training, immunization / vaccination status. These terms of reference will be incorporated into these By-Laws and create corresponding compliance obligations upon the relevant committee and individual Accredited Practitioners involved.

Note: Any sub-committees and craft groups will report to the Medical Advisory Committee who have ultimate accountability and oversight for the matters falling within the terms of reference or responsibility of the sub-committee or craft group.

29.5 form a Credentialing Committee to provide recommendations to the General Manager to consider when making a decision on an Application for Accreditation or Re-Accreditation, including a recommendation relating to Scope of Practice;

29.6 represent the collective views of the Accredited Practitioners at the Healthscope Hospital, including by providing the forum to liaise between the General Manager and the Accredited Practitioners at the Healthscope Hospital;

29.7 provide a representative forum for communication from or on behalf of the General Manager to the Accredited Practitioners at the Healthscope Hospital;

29.8 plan and manage a continuing education program for Accredited Practitioners;

29.9 advise the General Manager about referral of matters relating to clinical safety and quality of care to:

29.9.1 Healthscope or the Healthscope Hospital's own clinical governance committees;

29.9.2 the Healthscope Chief Medical Officer;

29.9.3 AHPRA or equivalent body receiving notifications in the relevant State or Territory;

29.9.4 an external body other than the AHPRA, such as the Department of Health; and/or

29.9.5 a Professional Organisation.

29.10 keep adequate agendas, minutes and documentation about the above matters, including the reasons for and/or evidence upon which decisions or recommendations are made, with the agenda and minutes (including decisions and recommendations) to be provided to the General Manager of the Healthscope Hospital;

29.11 provide an annual report to the General Manager of the Healthscope Hospital on activities in the preceding twelve months (which may include an assessment of the committee's contribution to the effective operation of the Healthscope Hospital) and to provide a report on a specific matter or issue where requested by the General Manager of the Healthscope Hospital;

Note: The Medical Advisory Committee may provide a written report or notification to the General Manager of the Healthscope Hospital in addition to the above timeframes, at any time it considers necessary or appropriate.

29.12 provide a report or notification direct:

29.12.1 to the Board or Chief Medical Officer; or

29.12.2 where required by regulation, to an external regulatory body such as the Department of Health (for example, the NSW requirement referenced below and the Tasmanian requirement set out in the *Health Service Establishments Regulation 2021* and more specifically detailed in the terms of reference of the relevant committee);

on any matter of significant concern unable to be resolved, despite reasonable efforts, directly with the General Manager of the Healthscope Hospital, and to provide notification to the General Manager of the Healthscope Hospital about the fact of the report or notification.

30 Notwithstanding any other provision in these By-Laws, the Medical Advisory Committee and Credentialing Committing (as applicable) at any Healthscope Hospital in New South Wales is responsible for:

30.1 advising the licensee on:

30.1.1 the Accreditation of Health Practitioners to provide services at the hospital and the delineation of their clinical responsibilities;

30.1.2 matters concerning clinical practice at the hospital;

30.1.3 matters concerning Patient care and safety at the hospital;

30.2 any other matter that may be prescribed by New South Wales regulations;

30.3 reporting to the Secretary of NSW Health any repeated failure by the licensee of the hospital to act on the Committee's advice on matters specified in By-Laws 30.1 and 30.2 where that failure is likely to adversely impact on the health or safety of Patients.

31 Notwithstanding any other provision in these By-Laws, the Medical Advisory Committee and Credentialing Committing (as applicable) at any Healthscope Hospital in Queensland is responsible for:

31.1 Evaluating the Credentials of all Medical Practitioners providing, or seeking to provide, health services at the hospital having regarding to advice received from an appropriate clinical college and/or health professional registration authorities;

31.2 Australian Commission on Safety and Quality in Health Care requirements;

31.3 Evaluating the particular health services available at the hospital including those services required to support the Accreditation and Scope of Practice requested or held;

31.4 Reviewing Accreditation and Scope of Practice at least every 5 years (however for Healthscope Hospitals, this requirement is subject to a lesser review period in accordance with By-Laws 103 to 106);

31.5 Making recommendations to the licensee of the hospital in relation to the granting or reviewing of Accreditation and Scope of Practice. These recommendations must include the scope of activities to be undertaken by the Medical Practitioner and the duration of Accreditation; and

31.6 Monitoring and reviewing, when necessary, the continuing practice of the individual Accredited Practitioner.

Membership of Medical Advisory Committee

32 The elected membership of the Medical Advisory Committee (for the purpose of these By-Laws, these will be referred to as **Elected Members**) must:

32.1 be Accredited Practitioners of the Healthscope Hospital;

32.2 be drawn from the various specialty areas of the Healthscope Hospital, so as to be representative of the main clinical services and profile of the Healthscope Hospital (through the process of nomination and election set out below);

32.3 be representative (where possible) of age, gender, ethnicity and any other relevant characteristics across the Accredited Practitioners at that Healthscope Hospital; and

32.4 include at least one female representative (where possible).

33 Additional members of the Medical Advisory Committee will include:

33.1 where appointed, the Medical Director or Chief Medical Officer (or person holding equivalent position) of the Healthscope Hospital;

33.2 the General Manager (in an ex officio capacity);

33.3 at the discretion of the General Manager, the Healthscope Hospital's Director of Nursing / Clinical Services (in an ex officio capacity); and

33.4 any other persons at the discretion of the General Manager.

34 The Medical Advisory Committee must consist of the number of people decided by the General Manager of the Healthscope Hospital, although it is to be no more than 12 members unless otherwise approved by the Chief Medical Officer. These requirements are subject to the relevant regulatory requirement of the jurisdiction and in those cases the membership must reflect the regulatory requirements of the jurisdiction (See By-Law 35 below).

35 By-Law 34 is subject to the following regulatory requirements of the local jurisdiction:

35.1 In New South Wales, the Medical Advisory Committee must consist of at least five Medical Practitioners, each of whom holds general or specialist registration in the medical profession, with Medical Practitioners forming the majority membership of the committee, at least one Medical Practitioner must have no pecuniary interest in the private health facility (with 'pecuniary interest' defined in the *Private Health Facilities Regulation 2017*) and the majority must not be comprised of people who are licensees of the Healthscope Hospital;

35.2 In Queensland, the Medical Advisory Committee must consist of at least four people, with the majority of members consisting of Medical Practitioners;

35.3 In Tasmania, unless otherwise approved by the Secretary of the Department, the Medical Advisory Committee is to consist of at least five Medical Practitioners, and include one member who has no pecuniary interest in the Healthscope Hospital (with 'pecuniary interest' defined in the *Health Service Establishments Regulations 2021*);

35.4 In Western Australia, the Medical Advisory committee will consist of:

35.4.1 A minimum of six elected members;

35.4.2 The Director of Medical Services;

35.4.3 The Director of Nursing;

35.4.4 Members co-opted by the Medical Advisory Committee from Medical Practitioners at another health care facility not otherwise represented on the Medical Advisory Committee or which are, in the opinion of the Medical Advisory Committee, inadequately represented. This may include, where appropriate, mental health, community health, aboriginal medical services, royal flying doctor service and other medical representative services in the community; and

35.4.5 Anyone co-opted by the Medical Advisory Committee to provide specialist advice, as required.

36 A General Manager may additionally appoint or co-opt a person to the Medical Advisory Committee:

36.1 for a specific time or purpose; or

36.2 generally, if the General Manager considers that the Medical Advisory Committee requires the assistance of that person.

Electing Members

37 For the Elected Members of the Medical Advisory Committee:

37.1 the General Manager will:

37.1.1 call for written nominations for the election of members to the Medical Advisory Committee;

Note: In Western Australia, nominations must be made in writing one calendar month before an election, but if no written nominations have been received then oral nominations will be accepted up to 72 hours before the date of the election.

37.1.2 exclude from the nominations for Elected Members any persons not considered by the General Manager to be appropriate (which is in the complete discretion of the General Manger), including exclusion of an Accredited Practitioner currently Suspended or the subject of material Special Conditions, and will exclude any nominee who has not been an Accredited Practitioner for at least 12 months;

37.1.3 call a meeting for the purpose of voting for the Elected Members to the Medical Advisory Committee;

37.2 a nominee may self-nominate; and

37.3 a nomination must be accepted by the nominee.

38 Voting for Elected Members of the Medical Advisory Committee will:

38.1 take place at the meeting called by the General Manager, although accommodation may be made for a written vote to be provided prior to the meeting;

38.2 be limited to the ability of an Accredited Practitioner only able to vote for an Elected Member of the same specialty as the voting Accredited Practitioner (meaning that an Accredited Practitioner is voting for a representative member for their specialty);

38.3 be carried out in person or electronically if not attending in person, with no entitlement to appoint a proxy, and in such a way that the voter's identity and their vote can remain anonymous to persons other than the individual with responsibility for conducting the vote;

38.4 be limited to those nominated and not excluded by the General Manager; and

38.5 be decided by majority vote (if a tied vote, the General Manager will decide).

39 If the Elected Members of the Medical Advisory Committee are not considered by the General Manager to be sufficiently representative of age, gender, ethnicity or any other relevant characteristics across the Accredited Practitioners at that Healthscope Hospital or does not consist of at least one female representative, then the General Manager may make additional appointments to the Medical Advisory Committee, who will also be regarded as and subject to the same requirements as set out in these By-Laws as Elected Members.

Term of Office

40 Elected Members:

40.1 will hold appointment for two years;

40.2 may be appointed for a maximum of 3 successive terms, unless the General Manager decides otherwise;

40.3 if holding appointment for 3 successive terms, may be reappointed following a break of one term.

Chairperson

41 The Elected Members of a Medical Advisory Committee will make a recommendation to the General Manager for the role of chairperson of the Medical Advisory Committee from within the Elected Member Accreditations. This recommendation requires ratification by the General Manager in order for that person to hold the position of chairperson.

42 The chairperson must not be the General Manager or an ex officio member of the Medical Advisory Committee and the role will be performed by a single person at any given time rather than a joint appointment.

43 The proceedings of the Medical Advisory Committee may proceed and will not be invalidated by the absence of a chairperson, with a member of the Medical Advisory Committee deputising or the General Manager facilitating committee functions by provision of administrative and other assistance in the absence of a chairperson.

Note: In New South Wales, the chairperson must not be a licensee of the Healthscope Hospital.

Note: In Victoria, the chairperson must not have a financial stake in the organisation.

Note: In Western Australia, the chairperson's term is for 1 year (therefore the process for appointment set out in these By-Laws will occur at an earlier time in Western Australia, although the chairperson may be re-elected) and the chairperson is required to undertake the following additional responsibilities:

(a) liaise between Healthscope Hospital management and Medical Practitioners to ensure each is informed on significant issues;

(b) if no Director of Medical Services (or equivalent) is appointed, may serve at the invitation of the General Manager as the medical coordinator for the Healthscope hospital., including participation in relevant meetings as required;

(c) in conjunction with the Director of Medical Services (or equivalent) fs appointed, review the adequacy of the emergency service provision at the Healthscope Hospital and, in particular, endeavour

to reconcile the Healthscope Hospital and community requirements having regard to relevant factors including, but not limited to the availability of Medical Practitioners and occupational health and safety considerations; and

(d) at the invitation of the General Manager, either generally or in specific circumstances, attend in an ex-officio capacity executive committee meetings of the Healthscope Hospital.

Meetings

44 A Medical Advisory Committee must hold one general meeting per annum

45 A Medical Advisory Committee must ordinarily hold at least four ordinary meetings per annum, however must meet as often as is necessary to effectively perform its responsibilities and functions.

46 The chairperson of the Medical Advisory Committee must determine the time and place of the general meeting and ordinary meetings of the Medical Advisory Committee.

47 The chairperson of a Medical Advisory Committee may hold a special meeting of the Medical Advisory Committee, subject to the approval of the General Manager, and absent special circumstances a reasonable period of notice is required prior to holding the meeting that is sufficient to achieve a quorum.

48 Meetings may be held in person, virtually or a combination of in person and virtual.

49 Absent special circumstances, a reasonable period of notice is required prior to holding a meeting, and the chairperson will also determine matters of procedure or deliberation for meetings so long as they are in accordance with the terms of reference.

Conflict of Interest or Bias

50 An Elected Member of the Medical Advisory Committee (including sub-committees such as the Credentialing Committee) who has a direct or indirect pecuniary interest, conflict of interest, potential conflict of interest (to include consideration of financial and business interests), Bias or perceived Bias in a matter that has been considered or is about to be considered at a meeting, shall as soon as possible after the relevant facts have come to the person's knowledge, disclose the nature of the interest to the chairperson (or if the chairperson, to the General Manager).

51 The chairperson (or if a matter in By-Law 50 is raised about the chairperson, then the General Manager) will decide whether recording of the disclosure of a matter referred to in By-Law 50 is sufficient regarding the issue, and that the Elected Member may continue to participate in the matter under consideration, or alternatively the chairperson (or if the chairperson, the General Manager) will decide that the person should be absent from the meeting and not participate when discussion occurs and recommendations are being made about that issue. The chairperson will also decide, given the matter under consideration, whether the agenda item or issue will be deferred and another appropriate person is co-opted to assist with the matter under consideration.

52 Conflicts of interest, Bias and the relevant actions taken, including a person being absent from the meeting, will be documented.

Quorum

53 The quorum of the Medical Advisory Committee with be 50% of the Elected Members. These requirements are subject to the relevant regulatory requirement of the jurisdiction and in those cases the membership must reflect the regulatory requirements of the jurisdiction (see By-Law 54 below).

54 By-Law 53 is subject is subject to the following regulatory requirements of the local jurisdiction:

54.1 In New South Wales, a Medical Advisory Committee must consist of five people (including the General Manager) to achieve a quorum or such greater number as the General Manager may determine;

54.2 In Queensland, a Medical Advisory Committee must consist of four people (including the General Manager) to achieve a quorum or such greater number as the General Manager may determine;

54.3 In Tasmania, a Medical Advisory Committee must consist of a majority of the members, one of whom must be the chairperson or his or her nominee;

54.4 In Western Australia, a quorum will comprise two thirds of the Elected Members and, subject to the agreement of the chairperson and General Manager, a member may nominate in writing another Medical Practitioner able to represent the same specialty constituency as proxy to attend particular meetings in their place when they are unable to attend or if they have been excluded by reason of conflict of interest or Bias. Where a member is called to an emergency, or where a member has received less than 48 hours' notice of the meeting, the Chairperson and General Manager may accept an oral proxy.

55 Unless specified otherwise or subject to a more specific regulatory requirement, decisions or recommendations of the Medical Advisory Committee or sub-committee will be made on a majority basis of those entitled to vote, and if an even number then the chairperson (or nominee) has the deciding vote.

Note: In Tasmania, a decision of the Medical Advisory Committee is to be determined by a majority of the members present and voting and, if the votes on any matter before the committee are equal, the matter is to be determined in the negative

Resignation, Suspension and Termination

56 An Elected Member of the Medical Advisory Committee may resign from the Committee, and for the balance of the term of that Elected Member or until the next election, whichever is sooner, the General Manager will appoint a replacement for that Elected Member.

Note: In Western Australia, any Elected Member who misses three consecutive meetings of a Medical Advisory Committee without good cause, as determined by the General Manager, will be deemed to have resigned.

57 If the Accreditation of an Elected Member is Suspended, then membership of that Elected Member to the Medical Advisory Committee is automatically suspended.

58 If the Accreditation of an Elected Member is Terminated, then membership of that Elected Member to the Medical Advisory Committee is automatically terminated.

59 If the Accreditation of an Elected Member is subject to an Internal or External Review pursuant to the By-Laws, or Special Conditions are imposed upon Accreditation, then at the discretion of the General Manager the membership of that Elected Member to the Medical Advisory Committee may be suspended for a period as determined by the General Manager.

60 The membership of an Elected Member to the Medical Advisory Committee may be terminated in the complete discretion of the General Manager.

61 There are no appeals pursuant to the By-Laws from decisions relating to membership of the Medical Advisory Committee.

Note: For the purposes of By-Laws 56 to 61, these By-Laws apply to sub-committees of the Medical Advisory Committee.

Sub-committees

62 A Medical Advisory Committee may create sub-committees.

63 The forming of and members of a sub-committee must be recommended by the chairperson of the Medical Advisory Committee and approved by the General Manager.

Creation of Credentialing Committee

64 A Medical Advisory Committee must form and maintain a Credentialing Committee.

65 A Credentialing Committee must be a sub-committee of the Medical Advisory Committee and convened for the purpose of:

65.1 considering any application for Accreditation or Re-Accreditation; and

65.2 providing to the General Manager recommendations on an Application for Accreditation or Re-Accreditation at that Healthscope Hospital and associated Scope of Practice.

66 Ex Officio members of the Medical Advisory Committee may attend the Credentialing Committee.

67 A member of the Credentialing Committee whose application for Accreditation or Re-Accreditation is being considered is excluded from the consideration, deliberations and recommendation, and must not be present.

68 In all States and Territories other than New South Wales and Queensland, the Credentialing Committee must consist of the number of persons decided by the General Manager, with the quorum consisting of 5 members (excluding ex officio members).

69 In New South Wales, the Credentialing Committee must consist of at least five people (including the Director of Nursing or the Director of Nursing's delegate, if the General Manager has decided that the Credentialing Committee must include the Director of Nursing or the Director of Nursing's delegate) to achieve a quorum or such greater number as the General Manager may determine.

70 In Queensland, the Credentialing Committee must:

70.1 include the Director of Medical Services of that hospital, or equivalent, where there is such an appointed Medical Practitioner;

70.2 include the Director of Nursing of that hospital or his or her delegate, and the delegate must be a member of the nursing staff;

70.3 suitably qualified peer/s of the applicant for Accreditation;

70.4 consist of four people (including the Director of Nursing of that hospital or his or her delegate) to achieve a quorum or such greater number as the General Manager may determine.

Other committees

71 The General Manager may create and maintain other committees.

72 The General Manager will determine the membership, powers, authorities and responsibilities of that committee, as well the administrative rules that will be documented in terms of reference.

Indemnity to Members of Committees

73 Subject to By-Law 74, Healthscope will indemnify each member of:

73.1 a Medical Advisory Committee;

73.2 any sub-committee of a Medical Advisory Committee;

73.3 any other committee created pursuant to these By-Laws and approved by the General Manager;

against any liability, claim, demand or proceeding which is made or commenced against him or her in respect of the performance of his or her functions on the committee in question, including reasonable and necessary legal costs and expenses incurred in the investigation, defence or settlement of that liability, claim, demand or proceeding by such lawyer or law firm appointed by or approved by Healthscope (including the terms of the retainer) in advance of incurring those legal costs and expenses.

74 Healthscope will not indemnify any person if:

74.1 the person incurs legal costs and expenses through engagement of a lawyer or law firm not appointed by or approved by Healthscope in advance of incurring those legal costs and expenses;

74.2 the General Manager determines that the liability, claim, demand, proceeding or legal costs and expenses arise out of or are in any way connected with:

74.2.1 a failure to comply with the By-Laws;

74.2.2 a failure to comply with the terms of reference of the committee;

74.2.3 a failure to adhere to a direction given by the General Manager;

74.2.4 a failure to perform his or her responsibilities or functions in good faith;

74.2.5 any illegal, criminal, fraudulent, dishonest, malicious or reckless act or omission committed, condoned or contributed to by that person; and/or

74.2.6 any act or omission that falls outside of performance of the person's functions on the committee and/or

74.2.7 any anti-competitive conduct, actions or decisions or attempted anti-competitive conduct, actions or decisions.

ACCREDITATION

Medical Practitioners and Dentists must be Accredited to Treat Patients

75 A Medical Practitioner or Dentist may treat Patients at a Healthscope Hospital only if he or she is an Accredited Practitioner at that Healthscope Hospital.

76 The Accreditation of an Accredited Practitioner is limited to:

76.1 the Healthscope Hospital or Healthscope Hospitals named in the notification of Accreditation; and

76.2 the Scope of Practice stated in the notification of Accreditation or any revised notification of Accreditation.

77 Accreditation at a Healthscope Hospital within a Scope of Practice gives no entitlement to have Accreditation or that Scope of Practice at any other Healthscope Hospital.

Application for Accreditation

78 A Medical Practitioner or Dentist who wishes to apply for Accreditation at a Healthscope Hospital must submit a fully completed application in the manner and form required by the Healthscope Hospital for that purpose, which may be electronic submission of an application and use of electronic signature.

79 An applicant for Accreditation must:

79.1 specify what Scope of Practice is sought;

79.2 include all information and every document specified;

79.3 consent to a national criminal history check, working with children check and any other checks as required by Healthscope or the Healthscope Hospital;

79.4 provide appropriate proof of identity to the level required by the General Manager, which will be a minimum of 100 point identity verification;

79.5 provide details of 2 referees (1 referee for surgical assistants) who can attest to the performance of the applicant, one of whom is from the same specialty as the applicant and can attest to the Scope of Practice applied for, and who has no conflict of interest or perceived conflict of interest; and

79.6 consent to:

79.6.1 the disclosure of information contained in the application to relevant people within Healthscope or the Healthscope Hospital responsible for Accreditation and business development; and

79.6.2 receiving contact from relevant people responsible for Accreditation and business development in advance of an application being considered, during consideration of that application and following a successful appointment.

Note: Consent to disclosure includes consent to direct access to the cGov system if that system is utilised for recording relevant information about the applicant and consent to ongoing access to the cGov system during the period of Accreditation for purposes relevant to Accreditation and business development. This will include but is not limited to purposes of on-boarding, obtaining contact details, confirmation of details and information held, checking accuracy of information held, progress of applications, identifying listing of Accredited Practitioners or specific groups of Accredited Practitioners, understanding Scope of Practice, communication with Accredited Practitioners, identification of other Accredited Practitioners engaged by that Accredited Practitioner, timing of renewal, determining if Accreditation is held at multiple sites and details of unsuccessful applications.

Application for Re-Accreditation

80 An Accredited Practitioner may submit an application for Re-Accreditation at a Healthscope Hospital.

81 If an Accredited Practitioner wishes to submit an application for Re-Accreditation at a Healthscope Hospital, unless determined otherwise by the General Manager, he or she must do so:

81.1 no earlier than 4 months before; and

81.2 no later than 2 months before;

the expiry of the current period of Accreditation. If this timeframe is not met, the General Manager may decide not to accept the application or may decide that the application will be treated in the same way as a new application for Accreditation, meaning that the process and entitlements available for an applicant for Re-Accreditation pursuant to these By-Laws will not apply (including but not limited to an appeal pursuant to these By-Laws in relation to an unsuccessful application).

Compliance with By-Laws

82 At the time of submitting an application for Accreditation or Re-Accreditation, the applicant must agree in writing that he or she will comply with and be bound by these By-Laws, as well as all matters

and requirements set out in these By-Laws. This will include written agreement to all of the matters set out in the application that require agreement by the applicant.

Receipt of Application for Accreditation

83 On first receiving an application for Accreditation at a Healthscope Hospital, the General Manager may reject the application for Accreditation in his or her sole and absolute discretion, and there is no appeal pursuant to these By-Laws from the decision of the General Manager. A further application may be not be submitted within a 12 month period from the decision to reject the application.

84 If a General Manager rejects an application for Accreditation pursuant to the pursuant to By-Law 83, the General Manager:

84.1 is not required to provide a reason for so doing; and

84.2 will inform the applicant of the decision to reject the application for Accreditation in writing as soon as practicable after making that decision.

Receipt of Application for Re-Accreditation

85 On first receiving an application for Re-Accreditation at a Healthscope Hospital, the General Manager may reject the application if incomplete or non-compliant with the By-Laws, but otherwise the General Manager is required to progress the application through to the next stage of consideration. However, if an Accredited Practitioner has not exercised Accreditation or utilised the facilities at the Healthscope Hospital for a continuous period of 6 months leading up to the application, without good reason that is communicated and accepted by the General Manager, or at a level or frequency as otherwise specified to the Accredited Practitioner by the General Manager, the General Manager may reject the application and there is no appeal available pursuant to these By-Laws from this decision of the General Manager.

Process following receipt of Application for Accreditation or Re-Accreditation

86 If the General Manager does not reject the application for Accreditation or Re-Accreditation pursuant to By-Laws 83 or 85, he or she:

86.1 may request a meeting with the applicant to discuss the application and also expectations if appointed. The meeting may include additional attendees at the discretion of the General Manager. If the applicant does not attending a requested meeting within a reasonable period of time, the General Manager may discontinue the application and there is no appeal available pursuant to these By-Laws from such a decision;

86.2 must then forward the application for Accreditation to the Credentialing Committee of the Healthscope Hospital and (where relevant) the General Manager of any other Healthscope Hospital in respect of which the applicant is applying for Accreditation in the same application form.

87 If a General Manager forwards an application for Accreditation to the General Manager of another Healthscope Hospital pursuant to By-Law 86.2, the procedure for consideration of an application applies as if the General Manager of the other Healthscope Hospital was the first General Manager to receive the application for Accreditation.

Assessment of Application for Accreditation

88 When assessing an application for Accreditation, the Credentialing Committee:

88.1 Will undertake the formal Credentialing process to match the skills, experience and qualifications to the roles and responsibilities of that position. This will include actions to verify and assess the applicant's Credentials, including:

88.1.1 identity, to the required level of identity assessment that may specified in the relevant policy and procedure, which will be a minimum 100 points of identity verification;

88.1.2 education;

88.1.3 formal qualifications or equivalency of overseas qualifications;

88.1.4 post-graduate degrees/awards/fellowships/certificates;

88.1.5 professional training;

88.1.6 continuing professional development;

88.1.7 professional experience;

88.1.8 recency of practice;

88.1.9 maintenance of clinical competence;

88.1.10 other skills/attributes, for example in leadership, research, education, communication, teamwork;

88.1.11 good standing; and

88.1.12 declaration of relevant matters or issues;

for the purpose of forming a view about the applicant's Competence, Performance, Current Fitness and professional suitability to provide safe, high quality health care to the standard required by Healthscope and with respect to the Scope of Practice sought;

88.2 may:

88.2.1 invite the Applicant to make oral submissions to the Credentialing Committee in support of the application for Accreditation;

88.2.2 consult one or more Health Practitioners who are:

(a) Accredited Practitioners at the Healthscope Hospital that maintains the Credentialing Committee; or

(b) independent of the Healthscope Hospital that maintains the Credentialing Committee;

provided the Health Practitioners are, in the Credentialing Committee's opinion, suitably experienced and qualified to assist the Credentialing Committee to assess the Application for Accreditation;

88.2.3 seek advice on the application from a nominee of the relevant College or professional association for the applicant's health profession who is independent of the Healthscope Hospital and who is not Biased;

88.2.4 seek comments, verbally or in writing, from the Director of Medical Services or Chief Medical Officer (or person holding equivalent position) of the Healthscope Hospital, where such person is appointed; and

88.2.5 conduct other enquiries as it considers appropriate, subject to any requirement to obtain consent of the applicant before contacting third parties or to obtain additional documentation direct from third parties.

89 When assessing an application for Accreditation, the Credentialing Committee must include the following as part of its assessment:

89.1 review of the applicant's:

89.1.1 relevant education, qualifications, experience, skills and training;

89.1.2 previous relevant employment and appointments;

89.1.3 current registration with AHPRA, inclusive of any conditions, undertakings or proceedings; and

89.1.4 current Appropriate Professional Indemnity Insurance Arrangements;

89.2 carry out the following actions:

89.2.1 make enquires regarding matters listed in the declaration of relevant matters or issues contained in the application;

89.2.2 check every reference provided with the application for Accreditation; and

89.2.3 form a view on the applicant's Competence, Performance, Current Fitness and professional suitability to provide safe, high quality health care to the standard required by Healthscope and with respect to the Scope of Practice sought;

89.3 provide the following notifications to the General Manager about:

89.3.1 any issues or concern identified during the assessment;

89.3.2 any issues of potential Current Fitness that are identified, including that relates to potential physical or mental impairment, restriction, limitation, disability, condition, disorder or deterioration (including due to alcohol or drugs) which may detrimentally affect, or may be likely to detrimentally affect or presents a reasonable risk of impacting upon, the person's capacity to provide health services at the expected level of safety and quality for the relevant Scope of Practice.

Note: For issues of potential Current Fitness, the General Manager will refer to the Chief Medical Officer for direction and management. The Chief Medical Officer may determine requirements that must occur prior to an application proceeding further, which may include medical assessment and/or medical reports addressing matters and seeking opinion as determined by the Chief Medical Officer. If the applicant refuses these requirements set by the Chief Medical Officer, then the application will be discontinued and there will be no appeal available pursuant to these By-Laws from this discontinuance.

90 When forming a view further to By-Law 89.2.3, the Credentialing Committee must take account of all of the following:

90.1 whether, and to what extent, the applicant's education, qualifications, experience, skills and training support the Scope of Practice sought by the applicant;

90.2 the applicant's character and good standing;

90.3 whether the applicant is a suitable person to be an Accredited Practitioner at the Healthscope Hospital;

90.4 whether the Healthscope Hospital has the facilities to support the applicant's proposed Scope of Practice;

90.5 whether, in its opinion, the applicant will continuously observe the current policies and procedures of the Healthscope Hospital;

90.6 any Accreditation, Credentialing or Scope of Practice guidelines promulgated by the relevant College or professional association for the applicant.

91 When taking account of Accreditation or Credentialing guidelines further to By-Law 90.6 the Credentialing Committee:

91.1 may be guided but is not be bound by these guidelines;

91.2 must consider the strength of evidence in support of volume-outcome relationships imputed by the guidelines;

92 The Credentialing Committee may make recommendations in relation to special categories of Accreditation, depending on the circumstances, including:

92.1 **Career Medical Officer**, which means an Accredited Practitioner who is a non-Specialist Medical Practitioner, engaged in independent practice at a Healthscope Hospital and who has an approved Scope of Practice;

92.2 **Clinical Visitor,** which means a Health Practitioner registered with AHPRA or professional body, other than a Medical Practitioner (see Medical Proctor below), attending the Healthscope Hospital to further their own professional development, education and/or training through observation (undertaking no direct Patient care);

92.3 **Consultant Emeritus**, which means a Specialist who has provided long and distinguished service to the Healthscope Hospital;

92.4 **Medical Proctor,** which means a Medical Practitioner who will not participate directly in the care of a Patient of the Healthscope Hospital and is present to further their own education and training through observation or is present to provide mentoring and guidance to an Accredited Practitioner.

Assessment of Application for Re-Accreditation

93 When assessing an Application for Re-Accreditation, an Credentialing Committee must:

93.1 undertake the same process as By-Laws 88-92;

93.2 consider continuing professional development programmes of the relevant College or professional association for the applicant's health profession;

93.3 consider any history of non-compliance with the By-Laws;

93.4 consider the applicant's history of and current status with respect to Clinical Practice and outcomes at the Healthscope Hospital during prior periods of Accreditation (including adverse events, internal audit results, external audit results and quality assurance activities), Professional Conduct, disciplinary actions, By-Law actions, compensation claims, complaints and concerns – clinical and behavioural, professional registration (including AHPRA notifications and outcomes) and Appropriate Professional Indemnity Insurance Arrangements;

93.5 form a view on the applicant's Competence, Performance, Current Fitness and professional suitability to provide safe, high quality health care to the standard required by Healthscope and with respect to the Scope of Practice sought.

Avoidance and Declaration of Bias

94 Every:

94.1 member of an Credentialing Committee;

94.2 Health Practitioner with whom an Credentialing Committee consults; and

94.3 nominee of a relevant College or professional association for the applicant's health profession with whom the Credentialing Committee consults;

must, when making a particular recommendation:

94.4 not be Biased or have conflict of interest or have a perceived conflict of interest;

94.5 declare to the Credentialing Committee if he or she believes that he or she is Biased or has a conflict of interest; and

94.6 not participate in any deliberations or recommendations of the Credentialing Committee with respect to any application for Accreditation in connection with which he or she believes that he or she is Biased or has a conflict of interest.

Recommendation by Credentialing Committee

95 As soon as practicable after assessing an application for Accreditation or Re-Accreditation, the Credentialing Committee must:

95.1 provide a written recommendation to the General Manager for him or her to consider when making a decision on the application for Accreditation or Re-Accreditation, including Scope of Practice, Accreditation Period (in accordance with By-Laws 103 to 106 below) and any Special Conditions it believes should apply to Accreditation; or

95.2 notify the General Manager in writing that it will not be making any recommendation to the General Manager for him or her to consider when making a decision on the application for Accreditation or Re-Accreditation. In these circumstances, the General Manager may, depending on the circumstances, seek an independent recommendation from a suitable person or persons outside of the Healthscope Hospital.

Note: In Tasmania, if the Credentialing Committee is proposing to make a recommendation against Accreditation or Re-Accreditation, the Credentialing Committee will firstly communicate in writing to the applicant to seek a response to the matters that are proposed to form a recommendation against Accreditation or Re-Accreditation, and following receipt of a response (if any) within the time specified, the Credentialing Committee will take that response (if any) into account prior to making a recommendation to the General Manager.

Note: In the ACT, if the Credentialling Committee intends to recommend Accreditation should be amended or withdrawn, they must give written notice of this fact, provide 21 days to respond to this information and the Credentialling Committee must consider the response before making a recommendation.

Decision by General Manager

96 As soon as practicable after the General Manager receives the written recommendation or notification from the Credentialing Committee regarding the application for Accreditation or Re-Accreditation, the General Manager must consider the recommendation or notification and then decide whether to accept or reject the application for Accreditation or Re-Accreditation, and if the decision is to accept the application for Accreditation or Re-Accreditation, the Scope of Practice, the Accreditation Period (in accordance with By-Laws 103 to 106 below) and any Special Conditions.

Note: If a General Manager is proposing not to accept a recommendation of the Credentialing Committee, the General Manager should, prior to making a decision, consult with the Chief Medical Officer to seek guidance and input. Special circumstances should be demonstrated (and documented) in relation to a decision that is proposed to be made by the General Manager to grant Accreditation following a negative recommendation from the Credentialing Committee, and in these circumstances the General Manager should consult with the Chief Medical Officer prior to making the decision and the rationale for this decision must be clearly documented.

97 The General Manager may take any additional matter that he or she considers is relevant into account when deciding the application, in addition to the requirements set out above, and is not bound by the recommendation of the Credentialing Committee.

Note: If an issue of potential Current Fitness is identified related to potential physical or mental impairment, restriction, limitation, disability, condition, disorder or deterioration (including due to

alcohol or drugs) which may detrimentally affect, or may be likely to detrimentally affect or presents a reasonable risk of impacting on, the person's capacity to provide health services at the expected level of safety and quality for the relevant Scope of Practice, then the General Manager will refer to the Chief Medical Officer for direction and management. The Chief Medical Officer may determine requirements that must occur prior to an application proceeding further, which may include medical assessment and/or medical reports addressing matters and seeking opinion as determined by the Chief Medical Officer. If the applicant refuses these requirements set by the Chief Medical Officer, then the application will be discontinued and there will be no appeal available pursuant to these By-Laws from this discontinuance.

98 As soon as practicable after the General Manager makes a decision, the General Manager must notify the applicant of the decision in writing.

99 If the General Manager accepts the application for Accreditation or Re-Accreditation, the General Manage will include in the notification to the applicant:

99.1 the approved Scope of Practice;

99.2 the Accreditation Period; and

99.3 any Special Conditions that apply to the Accreditation.

100 The General Manager is not required to give the applicant any reason for making his or her decision on the application for Accreditation or Re-Accreditation.

101 If the General Manager decides to reject an application for Accreditation, there is no appeal available pursuant to By-Laws 196 to 226.

102 If the General Manager decides to reject an application for Re-Accreditation, there is an appeal available pursuant to By-Laws 196 to 226, unless a more specific By-Law provides there is no appeal available.

Accreditation Period

103 The Accreditation or Re-Accreditation Period may not exceed 3 years.

104 There is no automatic entitlement to the full 3 year period of Accreditation. Shorter periods of Accreditation or Re-Accreditation may be considered appropriate in the circumstances and are at the discretion of the General Manager, for example in considering an issue of Current Fitness it may be determined that more regular reassessment of Re-Accreditation is required.

105 An Accredited Practitioner is Accredited only for the Accreditation Period and ceases to be an Accredited Practitioner on the last day of the Accreditation Period

106 For an application for Re-Accreditation, if the Accreditation Period is to expire before the application has been considered and a decision made, then the General Manager may consider a period of Temporary Accreditation (see By-Laws 107 to 115) that expires once a decision has been made regarding the application.

Temporary Accreditation

107 The General Manager of a Healthscope Hospital may grant Temporary Accreditation and Scope of Practice on terms and conditions considered appropriate by the General Manager.

108 Temporary Accreditation processes may, at the election of the General Manager of a Healthscope Hospital, be utilised for a medical proctor.

109 The General Manager of a Healthscope Hospital, in deciding whether to grant Temporary Accreditation, will do so only after taking the following steps (except in cases of emergency, with the requirements for an emergency set out in By-Law 111 below):

109.1 confer with the chairperson of the Medical Advisory Committee or delegate;

109.2 be satisfied as to all of the following:

109.2.1 verification has occurred that the applicant is a registered Medical Practitioner or Dentist with AHPRA in the specialty appropriate for the Scope of Practice sought;

109.2.2 the applicant will agree to continuously observe the By-Laws, current policies and procedures of the Healthscope Hospital;

109.2.3 the Healthscope Hospital has the facilities to support the applicant's proposed treatment of any Patient;

109.2.4 the Healthscope Hospital is able to provide appropriate staff, facilities and support to the applicant's treatment of any Patient;

109.2.5 any treatment of a Patient by the applicant will comply with the conditions of the Healthscope Hospital's licence and is within its service capability;

109.2.6 any treatment of a Patient by the Applicant is amenable to the safe and efficient functioning of the Healthscope Hospital as a whole;

109.2.7 the applicant has provided requested referee details and the reference checks are to the satisfaction of the General Manager and are relevant to the Scope of Practice sought;

109.2.8 the applicant has provided sufficient verification of identity to a minimum of 100 points; and

109.2.9 that applicant has provided sufficient evidence of Appropriate Professional Indemnity Insurance.

110 If an application form and required documentation processes are established for Temporary Accreditation, then those forms must be used and documentation provided, in order for a Temporary Accreditation to proceed.

111 In cases of emergency need for Temporary Accreditation, the General Manager of the Healthscope Hospital will decide the immediate information and documentation required in order to approve the Temporary Accreditation (which will include at a minimum verification of identity to 100 points, verification of registration with AHPRA and sufficient evidence of Appropriate Professional Indemnity Insurance). The General Manager of the Healthscope Hospital will thereafter follow up with the remainder of the requirements for Temporary Accreditation as soon as reasonable and practicable.

112 The General Manager of a Healthscope Hospital may authorise Temporary Accreditation for a period up to 3 months from the date the General Manager notifies the applicant of his or her decision.

113 The General Manager may only authorise a further period of Temporary Accreditation for an additional 1 month in exceptional circumstances as determined by the General Manager

114 If a General Manager of a Healthscope Hospital decides to authorise Temporary Accreditation:

114.1 the General Manager must notify the applicant and the Credentialing Committee of:

114.1.1 the decision;

114.1.2 the approved Scope of Practice; and

114.1.3 the period of Temporary Accreditation,

as soon as practicable after making that decision;

114.2 the applicant may only treat Patients at the Healthscope Hospital in accordance with the General Manager's authorisation;

114.3 the applicant must comply with these By-Laws;

114.4 the applicant's authority to treat Patients at the Healthscope Hospital ends when the earliest of the following things occurs:

114.4.1 the General Manager notifies the applicant in writing that the General Manager has decided to end the applicant's Temporary Accreditation (which may occur at any time at the election of the General Manager prior to expiry of the period of Temporary Accreditation);

114.4.2 a decision is made and notified regarding an application for Accreditation or Re-Accreditation; or

114.4.3 the expiry of the notified period of Temporary Accreditation, including any approved extension.

115 There is no appeal available pursuant to these By-Laws from a decision of a General Manager of a Healthscope Hospital regarding any aspect relating to Temporary Accreditation.

Resignation or Extended Absence

116 An Accredited Practitioner who decides to cease treating Patients at a Healthscope Hospital at which he or she is Accredited, either indefinitely (which will be regarded as a resignation of Accreditation) or for more than six months (which will be regarded as extended absence), shall notify the General Manager of that Healthscope Hospital of that decision and reasons in writing:

116.1 as soon as practicable after he or she makes that decision; and

116.2 (whenever practicable) as soon as practicable prior to the cessation of the Accredited Practitioner's normal Patient bookings and clinical activities at the Healthscope Hospital.

117 Where an Accredited Practitioner gives notice in according with By-Law 116:

117.1 the Accreditation of the Accredited Practitioner ends on the latter of the date he or she gives the notice or any date stated in the notice; and

117.2 the Accredited Practitioner must:

117.2.1 ensure that, upon ceasing to treat Patients, any remaining Patients are either discharged or referred with appropriate consent to the care of an equivalent Accredited Practitioner who is Accredited in respect of that Healthscope Hospital to ensure continuous cover; and

117.2.2 advise his or her own Patients, and any known carers or legal guardians of those Patients, of any proposed changes to the Patients' care arrangements.

Variation of Accreditation and Scope of Practice

118 An Accredited Practitioner may request a variation to his or her Accreditation or Scope of Practice at a Healthscope Hospital at any time, and an approval for variation of Accreditation or Scope of Practice must occur prior to an Accredited Practitioner performing services outside of the currently approved Scope of Practice or when introducing new surgical procedures, medical procedures or technology within the Healthscope Hospital.

119 Subject to By-Law 120, the processes for variation of Accreditation are the same as for an application for Accreditation by an Accredited Practitioner.

120 The General Manager of the Healthscope Hospital at which the variation of Accreditation is requested may waive the requirement for the Accredited Practitioner to submit an application form if the General Manager is satisfied that:

120.1 the proposed variation is limited to a reduction in the Accredited Practitioner's Scope of Practice; or

120.2 there has been no change to any relevant information provided to the Healthscope Hospital since the date on which the Accredited Practitioner was last Accredited.

REVIEW OF ACCREDITATION AND/OR SCOPE OF PRACTICE

Review of Clinical, Behaviour or other Concerns Regarding an Accredited Practitioner

121 The General Manager of a Healthscope Hospital may at any time commission a review of an Accredited Practitioner's Accreditation and/or Scope of Practice, where concerns have been identified or allegations made about any of the following matters as they relate to the Accredited Practitioner:

121.1 Patient health or safety has been, or could potentially in the future be, compromised;

121.2 the rights, interests, health or safety of a Patient, staff, Accredited Practitioner, student or someone engaged at or attending the Healthscope Hospital has been, or could potentially be, adversely affected or infringed upon, or a workplace health and safety concern has arisen;

121.3 concerning or unprofessional behaviour or conduct, including in relation to the Behavioural Standards;

Note: The process to manage behaviour or conduct concerns of an Accredited Practitioner, even if the standard or expectations are taken from a Healthscope policy or code of conduct, is pursuant to these By-Laws. Employment processes (including warnings) are not required, even if set out in the Healthscope policy or code of conduct.

121.4 Competence, Current Fitness, physical impairment or mental impairment;

121.5 clinical or professional Performance;

121.6 compatibility with Organisational Capability or Organisational Need;

121.7 acting outside of Scope of Practice;

121.8 non-compliance with Special Conditions or an undertaking;

121.9 the current Scope of Practice granted to the Accredited Practitioner does not support the care or treatment sought or to be undertaken by the Accredited Practitioner;

121.10 confidence held in the Accredited Practitioner;

121.11 non-compliance with the By-Laws, including General Conditions;

121.12 non-compliance with Healthscope policies and procedures or Healthscope Hospital policies and procedures;

121.13 a possible ground for Suspension or Termination of Accreditation may have occurred;

121.14 the efficient operation of Healthscope or the Healthscope Hospital could be threatened or disrupted;

121.15 the potential loss of the license or negative accreditation outcome of the Healthscope Hospital;

121.16 the potential to bring Healthscope or the Healthscope Hospital into disrepute;

121.17 a breach of a legislative or legal obligation of Healthscope or the Healthscope Hospital or imposed upon the Accredited Practitioner may have occurred;

121.18 the Accredited Practitioner could be found to have breached any law or legislation; and/or

121.19 the General Manager of the Healthscope Hospital for any other reason believes that a review is appropriate.

Note: It is not necessary for a review process to occur before proceeding to formal action pursuant to these By-Laws, such as Suspension or Termination of Accreditation, if a threshold for concern has been met at the discretion of the General Manager. The decision whether a review process may be required before taking substantive action with respect to Accreditation is completely within the discretion of the General Manager.

122 The General Manager will determine whether the process to be adopted is an Internal Review (see from By-Law 130 below) or External Review (see from By-Law 140 below), defined as follows:

122.1 an Internal Review is a review conducted by representatives of the Healthscope Hospital who the General Manager does not regard as Biased or having a conflict of interest or having a perceived conflict of interest (with the mere fact of holding employment or Accreditation at the Healthscope Hospital insufficient to establish Bias or a conflict of interest or a perceived conflict of interest); or

122.2 an External Review is a review conducted by representatives external to the Healthscope Hospital who the General Manager does not regard as Biased or having a conflict of interest or having a perceived conflict of interest, and who may be from or holding Accreditation at another Healthscope Hospital (with the mere fact of holding employment or Accreditation at another Healthscope Hospital insufficient to establish Bias or a conflict of interest or perceived conflict of interest).

123 Prior to determining whether an Internal Review or External Review will be conducted, the General Manager may in their absolute discretion meet with the Accredited Practitioner (the Accredited Practitioner may choose to bring along a Support Person), along with any other persons the General Manager considers appropriate. In advance of or at the meeting, the General Manager will advise of the concern or allegation raised, and invite a preliminary response from the Accredited Practitioner (in writing or orally, as determined by the General Manager), which response may be given at and/or following the meeting. Thereafter, the General Manager will make a determination whether a review will proceed, and if so, whether an Internal Review or External Review.

124 The Accredited Practitioner who is the subject of a review, whether an Internal Review or External Review:

124.1 Will ordinarily be offered an opportunity to make a written submission to the reviewer(s) and offered an opportunity to attend (including virtually) before the reviewer(s) (with a Support Person if requested by the Accredited Practitioner) to speak to the matters contained in the written submission and any other matters the Accredited Practitioner wishes to address. The Support Person is not entitled to address the reviewer or advocate on behalf of the Accredited Practitioner, given the role is confined to support only; and

124.2 Must cooperate fully with the reviewer(s), including providing information reasonably required to inform the reviewer(s), failing which the General Manager may make a determination or recommendation to immediately proceed to Suspension or Termination of Accreditation.

125 Given that the review process, the terms of reference (or a summary of the key aspects of the terms of reference), access to information and reviewer(s) are within the complete discretion and determination of the General Manager, any non-material deviations from the established process will not result in a flawed process and appropriate actions and response to deviations will be as determined by the General Manager.

126 The review may have wider terms of reference than a review of the Accredited Practitioner's Accreditation or Scope of Practice. The scope of the review is entirely in the General Manager's discretion.

127 The General Manager may, in their complete discretion, make a determination regarding interim Suspension of Accreditation or placing interim Special Conditions on Accreditation, which are actions taken pending the outcome of a decision being made with respect to the review. In addition, the General Manager may decide that it is appropriate for the Accredited Practitioner to step aside or take leave from certain roles held at the Healthscope Hospital pending the outcome of the review. There is no right of appeal available pursuant to these By-Laws against a decision to impose an interim Suspension or Special Conditions, or a direction to step aside or take leave from certain roles held at the Healthscope Hospital, pending the outcome of the review.

Note: As the review has not concluded, the level of satisfaction required by the General Manager in making these interim decisions is necessarily lower, with the paramount considerations when balancing matters before making the decision to be the interests of Patients, Staff, Healthscope and the Healthscope Hospital, even if the outcome of the interim action will impact upon Accreditation, professional reputation, economic interests or personal interests of the Accredited Practitioner in circumstances where the review has not concluded.

128 Circumstances may arise where the General Manager determines that, in addition to undertaking a review, they are mandated by legislation or believe it is in the public's (including patients at other health care organisations) or Patient's interest to notify AHPRA and/or other accrediting professional organisations of the details of the concerns that have been raised regarding the Accredited Practitioner.

129 The General Manager in their absolute discretion, may decide that as an alternative to conducting an Internal Review or External Review the concerns that have been raised regarding the Accredited Practitioner should immediately be notified to AHPRA for that organisation to take the requisite action. Following the outcome of any such action, the General Manager may, at their absolute discretion, elect to take any further action they consider appropriate under these By-Laws.

Internal Review

130 The General Manager will draft the terms of reference of the Internal Review and appoint reviewer(s) who bring specific expertise to the Internal Review, as determined by the General Manager.

131 The terms of reference, process, access to information and reviewer(s) will be as determined by the General Manager.

132 The General Manager will notify the Accredited Practitioner in writing of the review, the terms of reference (or a summary of the key aspects of the terms of reference), process, material to be provided and reviewer(s). The process will ordinarily allow for:

132.1 the Accredited Practitioner to be notified of the nominated reviewer(s);

132.2 the Accredited Practitioner's written submission to be provided to the reviewers(s);

132.3 attendance before the reviewer(s), including virtually (with a Support Person if requested by the Accredited Practitioner) to speak to the matters contained in the written submission and any other matters the Accredited Practitioner wishes to address including but not limited to responding to the issues of concern, and the opportunity to be afforded (subject to By-Law 133) review of relevant material or a summary of relevant aspects of that material in order to respond.

133 The General Manage may decide to limit or redact information or documentation when providing to the Accredited Practitioner if concerned about reprisal, interference with witnesses, future witnesses coming forward for this matter, negative impact on individuals wishing to report in the future (regarding this Accredited Practitioner or in general), prejudicing the review or potential impact upon privacy of individuals. Limiting or redacting information or documentation will be the minimum necessary and only done for good reason, with the General Manager also to consider fairness to the Accredited Practitioner and the impact upon the ability of the Accredited Practitioner to respond to the matters under review.

134 A detailed report on the findings of the review in accordance with the terms of reference will be provided by the reviewer(s) to the General Manager.

135 On consideration of the report the General Manager will determine, in accordance with the By-Laws, what (if any) action will be taken regarding the Accredited Practitioner's Accreditation. This may include but is not limited to unchanged Accreditation; Termination of Accreditation; accept an Undertaking; Accreditation with Special Conditions; Suspension of Accreditation.

Note: An Internal Review and the decision to be made by the General Manager is not a court or legal process, with the paramount considerations when balancing matters to be the interests of Patients, Staff, Healthscope and the Healthscope Hospital, even if the outcome will impact upon Accreditation, professional reputation, economic interests or personal interests of the Accredited Practitioner. The General Manager will determine the level of substantiation required, which will depend on the circumstances of the case, and will usually be a level of reasonable satisfaction about substantiation in relation to the matters under review.

136 Prior to making a decision following receipt of the report, the General Manager, in their absolute discretion, may elect to provide all or relevant portions of the report to the Accredited Practitioner to provide a further submission about matters set out in the report and about proposed action that may be taken by the General Manager.

137 The General Manager must notify the Accredited Practitioner in writing of the determination made in relation to the Accreditation, the reasons for it, and advise of the right of appeal, the appeal process and the timeframe for an appeal.

138 The Accredited Practitioner shall have the rights of appeal established by these By-Laws in relation to the final determination made by the General Manager if a decision is made to amend, Suspend, Terminate or impose Special Conditions on the Accredited Practitioner's Accreditation.

139 The General Manager, in their absolute discretion, may decide that in addition to or as an alternative to taking action regarding the Accredited Practitioner's Accreditation, they are mandated by legislation or believe it is in the public's (including patients at other health care organisations) or Patient's interest to notify AHPRA and/or other accrediting professional organisations of the details of the concerns that have been raised regarding the Accredited Practitioner, the review findings and/or the General Manager's decision regarding Accreditation.

External Review

140 The General Manager will draft the terms of reference of the External Review and appoint reviewer(s) external to the Healthscope Hospital who bring specific expertise to the External Review, as determined by the General Manager.

141 The terms of reference, process, access to information and reviewer(s) will be as determined by the General Manager. Indemnity arrangements for reviewer(s) will be confirmed by the Chief Medical Officer.

142 The General Manager will notify the Accredited Practitioner in writing of the review, the terms of reference (or a summary of the key aspects of the terms of reference), process, material to be provided and reviewer(s). The process will ordinarily allow for:

142.1 the Accredited Practitioner to be notified of the nominated reviewer(s);

142.2 the Accredited Practitioner's written submission to be provided to the reviewer(s);

142.3 attendance before the reviewer(s), including virtually (with a Support Person if requested by the Accredited Practitioner) to speak to the matters contained in the written submission and any other matters the Accredited Practitioner wishes to address including but not limited to responding to the issues of concern, and the opportunity to be afforded (subject to By-Law

143) for review of relevant material or a summary of relevant aspects of that material in order to respond.

143 The General Manage may decide to limit or redact information or documentation when providing to the Accredited Practitioner if concerned about reprisal, interference with witnesses, future witnesses coming forward for this matter, negative impact on individuals wishing to report in the future (regarding this Accredited Practitioner or in general), prejudicing the review or potential impact upon privacy of individuals. Limiting or redacting information or documentation will be the minimum necessary and only done for good reason, with the General Manager also to consider fairness to the Accredited Practitioner and the impact upon the ability of the Accredited Practitioner to respond to the matters under review.

144 A detailed report on the findings of the review in accordance with the terms of reference will be provided by the reviewer(s) to the General Manager.

145 On consideration of the report the General Manager will determine, in accordance with the By-laws, what (if any) action should be taken regarding the Accredited Practitioner's Accreditation. This may include but is not limited to: change/modification to Scope of Practice; unchanged Accreditation; Termination of Accreditation; accept an Undertaking; Accreditation with Special Conditions; Suspension of Accreditation.

Note: An External Review and the decision to be made by the General Manager is not a court or legal process, with the paramount considerations when balancing matters to be the interests of Patients, Staff, Healthscope and the Healthscope Hospital, even if the outcome will impact upon Accreditation, professional reputation, economic interests or personal interests of the Accredited Practitioner. The General Manager will determine the level of substantiation required, which will depend on the circumstances of the case, and will usually be a level of reasonable satisfaction about substantiation in relation to the matters under review.

146 Prior to making a decision following receipt of the report, the General Manager, in their absolute discretion, may elect to provide all or relevant portions of the report to the Accredited Practitioner to provide a further submission about matters set out in the report and about proposed action that may be taken by the General Manager.

147 The General Manager must notify the Accredited Practitioner in writing of the determination made in relation to the Accreditation, the reasons for it, and advise of the right of appeal, the appeal process and the timeframe for an appeal.

148 The Accredited Practitioner shall have the rights of appeal established by these By-Laws in relation to the final determination made by the General Manager if a decision is made to amend, Suspend, Terminate or impose Special Conditions on the Accredited Practitioner's Accreditation.

149 The General Manager, in their absolute discretion, may decide that in addition to or as an alternative to taking action regarding the Accredited Practitioner's Accreditation, they are mandated by legislation or believe it is in the public's (including patients at other health care organisations) or Patient's interest to notify AHPRA and/or other accrediting professional organisations of the details of the concerns that have been raised regarding the Accredited Practitioner, the review findings and/or the General Manager's decision regarding Accreditation.

ACTION IN CONNECTION WITH ACCREDITATION

150 Accreditation of an Accredited Practitioner may be Suspended, Terminated or Special Conditions imposed, by the General Manager of the Healthscope Hospital, in accordance with the requirements set out in By-Laws 162 to 192. Prior to taking such action, and in the complete discretion of the General Manager, informal counselling, a formal warning (which may be a first and final warning) or an Undertaking may be considered pursuant to By-Laws 152 to 161.

151 In making decisions and acting pursuant to these By-Laws in relation to informal counselling, a formal warning, Undertakings, imposition of Special Conditions, Suspension of Accreditation or Termination of Accreditation, including the weighing of relevant factors, the quality of health care and the safety of Patients will be the paramount consideration, followed by the interests of Staff, Healthscope and the Healthscope Hospital. These factors will ordinarily be given more weight when balanced against the impact upon Accreditation, professional reputation, economic interests and/or personal interests of the Accredited Practitioner, although these factors relating to the Accredited Practitioner are still important and should be considered in the weighing exercise of competing factors.

Informal Counselling

152 Prior to taking action including the issue of a formal warning pursuant to these By-Laws, the General Manager of the Healthscope Hospital, in his or her complete discretion, may decide to engage in informal counselling with the Accredited Practitioner to raise the issue of concern, discuss the issue of concern and agree on an outcome or outcomes arising from that discussion.

153 The informal counselling must be documented and a letter sent to the Accredited Practitioner setting out the issue/s of concern, a summary of the discussion about the issue/s of concern and the agreement reached on an outcome or outcomes arising from that discussion.

154 No more than 2 informal counselling discussions may occur about the same issue, following which a formal warning or other action available pursuant to these By-Laws is required to be taken.

Formal Warning

155 A General Manager of a Healthscope Hospital may give a written formal warning to an Accredited Practitioner about any of the matters listed as potential grounds for Suspension or Termination of Accreditation.

Note: There is no requirement to first issue a formal warning before proceeding with any other action pursuant to these By-Laws, including Suspension or Termination of Accreditation.

156 The General Manager will decide whether a first and final warning is given, and if a first and final warning is given and further similar concern/s arise in the future, then the option of a formal warning pursuant to the By-Laws is no longer available and the General Manager must consider an Undertaking, Special Conditions, Suspension of Accreditation or Termination of Accreditation.

157 A formal warning must be documented and sent to the Accredited Practitioner, setting out the issues of concern, a summary of the discussion about the issues of concern, the warning (including if it is a first and final warning) and the potential consequence if the issue of concern is repeated. There is no appeal available pursuant to these By-Laws regarding the issue of a formal warning.

Undertaking

158 A General Manager of a Healthscope Hospital may decide at any time to accept an Undertaking from an Accredited Practitioner, which means a written agreement by an Accredited Practitioner to do and/or not to do something.

159 Although in the complete discretion of the General Manager, an Undertaking may be considered appropriate for any of the matters listed as potential grounds for Suspension or Termination of Accreditation that presents as a lower risk issue of concern/s and the General Manager considers that the Accredited Practitioner demonstrates sufficient insight and/or agrees to satisfactory remedial action that the issue/s of concern are much less likely to occur in the future.

160 The Undertaking must clearly set out the agreement reached, be dated, have a timeframe for which the Undertaking will apply, a date by which a review of the Undertaking will occur (if applicable) and requirements for the Undertaking to be released or lapse (if applicable), and be signed by the

Accredited Practitioner. There is no appeal available pursuant to these By-Laws regarding any matter related to an Undertaking.

161 The General Manager will provide a copy of the Undertaking to the Chief Medical Officer and the General Manager of any other Healthscope Hospital at which the Accredited Practitioner holds Accreditation.

Special Conditions

162 At the conclusion of or pending finalisation of an Internal or External Review, in lieu of a Suspension of Accreditation or in lieu of a Termination of Accreditation, the General Manager of a Healthscope Hospital may elect to impose Special Conditions on Accreditation or Scope of Practice of the Accredited Practitioner. This means conditions of Accreditation imposed by a General Manager on an Accredited Practitioner's Accreditation and which do not require agreement from the Accredited Practitioner. An appeal is available pursuant to these By-Laws other than from imposition of interim Special Conditions.

163 Although in the complete discretion of the General Manager, a Special Condition or Special Conditions may be considered appropriate where the General Manager considers that the risk to Healthscope, the Healthscope Hospital, Patients and/or Staff can be sufficiently managed without the need for Suspension or Termination of Accreditation.

164 Conditions on Accreditation or Scope of Practice include but are not limited to conditions that may restrict or limit Clinical Practice or provision of services or Scope of Practice at the Healthscope Hospital, may restrict or limit attendance at the Healthscope Hospital, may require the Accredited Practitioner to undertake certain actions or requirements (at the expense of the Accredited Practitioner) and/or may require the Accredited Practitioner to refrain from certain actions or activities. Depending on the circumstances of the particular matter, Special Conditions may include a timeframe for which the Special Conditions will apply, a date by which a review of the Special Conditions will occur and/or requirements for the Special Conditions to be released or lapse.

165 The General Manager will notify the Accredited Practitioner in writing of the imposition of the Special Condition/s, the reasons for it, the consequences if the Special Condition/s are breached, and advise of the right of appeal (if applicable), the appeal process and the timeframe for an appeal.

166 If the General Manager considers it applicable and appropriate in the circumstances, they may also invite a written response from the Accredited Practitioner as to why the Accredited Practitioner may consider the Special Condition/s should not be imposed or not imposed in the manner proposed by the General Manager.

167 If a Special Condition is refused or breached, then Suspension or Termination of Accreditation may occur, as determined by the General Manager.

168 The Accredited Practitioner shall have the rights of appeal established by these By-Laws, with an appeal not available from a decision to impose Special Condition/s pending finalisation of an Internal or External Review.

169 The General Manager will provide a copy of the Special Conditions to the Chief Medical Officer and the General Manager of any other Healthscope Hospital at which the Accredited Practitioner holds Accreditation. Absent special circumstances, as specifically determined and documented by the General Manager at the other Healthscope Hospital, the Special Conditions will automatically apply at that other Healthscope Hospital without further action required pursuant to the By-Laws.

170 If there is held, in good faith, a belief that the continuation of the unconditional right to practice in any other organisation would raise a significant concern about the safety and quality of health care for Patients and the public, the General Manager will notify AHPRA and/or other accrediting professional organisations of the imposition of the Special Conditions and the reasons the Special Conditions were imposed.

171 Accredited Practitioners accept and agree that, as part of the acceptance of Accreditation, an imposition of Special Conditions carried out in accordance with these By-Laws is a safety and protective process rather than a punitive process, and as such it does not result in an entitlement to any compensation, including for economic loss or reputational damage.

Suspension

172 The General Manager of a Healthscope Hospital may suspend an Accredited Practitioner's Accreditation, if the General Manager believes that:

172.1 it is in the interests of Patient care or safety;

172.2 the continuance of the current Scope of Practice, or performance of particular aspects of Patient treatment or care, raises a reasonable concern about the safety and quality of treatment or care provided by the Accredited Practitioner;

172.3 the Accredited Practitioner is considered to no longer hold or maintain sufficient Competence, Current Fitness or Performance;

172.4 it is in the interests of the wellbeing, welfare or safety of staff or another Accredited Practitioners;

172.5 it is in the interests of workplace health or safety;

172.6 serious and unresolved concerns or allegations have arisen in relation to the Accredited Practitioner. This may be related to a patient or patients at another health care provider not operated by the Healthscope Hospital, and may relate to an ongoing review by an external agency including a registration board, disciplinary body, Coroner or a health complaints body;

172.7 the Accredited Practitioner has failed to comply with the By-Laws, including the terms and conditions of Accreditation, General Conditions, Special Conditions, policies, procedures and standards of Healthscope or the Healthscope Hospital;

172.8 the Accredited Practitioner has practiced outside their approved Scope of Practice;

172.9 the behaviour or conduct is in breach or apparent breach of the Behavioural Standards, a direction or an Undertaking, the By-laws, Healthscope or Healthscope Hospital code of conduct or policies regarding behaviour or conduct, is not consistent with the Medical Board of Australia Good Medical Practice: A Code of Conduct for Doctors in Australia, or is not consistent with the relevant code of the Accredited Practitioner's College;

172.10 the conduct of the Accredited Practitioner is such that it is unduly hindering the efficient operation of Healthscope or the Healthscope Hospital or any of its services at any time;

172.11 the conduct of the Accredited Practitioner is bringing, or may bring, Healthscope or the Healthscope Hospital into disrepute, or is compromising the interests of Healthscope or the Healthscope Hospital generally;

172.12 the behaviour or conduct of the Accredited Practitioner is notifiable or notified to AHPRA;

172.13 the Accredited Practitioner has been suspended by their registration board or AHPRA;

172.14 there is a finding of professional misconduct, unprofessional conduct, unsatisfactory professional conduct or some other adverse professional finding (however described) by AHPRA, a registration board or other relevant disciplinary body or professional standards organisation for the Accredited Practitioner;

172.15 the Accredited Practitioner’s professional registration is amended, limited, conditions imposed or undertakings agreed, irrespective of whether this relates to a current or former Patient of Healthscope or the Healthscope Hospital;

172.16 the Accredited Practitioner's professional indemnity insurance is withdrawn, amended, limited or conditions imposed, in a way that is not considered acceptable to Healthscope or the Healthscope Hospital;

172.17 the Accredited Practitioner has made a false declaration or provided false or inaccurate information to Healthscope or the Healthscope Hospital, either through omission of important information or inclusion of false or inaccurate information;

172.18 the Accredited Practitioner fails to make the required notifications required to be given pursuant to these By-Laws;

172.19 the Accreditation or Scope of Practice of the Accredited Practitioner has been suspended, terminated, reviewed, restricted or made conditional by another health care organisation;

172.20 the Accredited Practitioner is subject to allegations or findings of dishonesty, fraud, bribery or corruption;

172.21 the Accredited Practitioner is the subject of a criminal investigation about a serious matter which, if established, could affect their ability to exercise their Scope of Practice safely and competently or with the confidence of Healthscope, the Healthscope Hospital and/or the broader community;

172.22 the Accredited Practitioner has been convicted of a crime which could affect their ability to exercise their Scope of Practice safely and competently or with the confidence of Healthscope, the Healthscope Hospital and/or the broader community;

172.23 this action is required based upon a finalised Internal Review or External Review, with any of the above criteria for Suspension considered to apply;

172.24 an interim Suspension is considered appropriate pending the outcome of an Internal Review or External Review, with any of the above criteria for Suspension considered to apply; and/or

Note: A lower threshold of satisfaction is permitted with respect to the criteria for interim Suspension given the review is not completed and the paramount consideration will be Patient safety.

172.25 there are other unresolved issues or other concerns in respect of the Accredited Practitioner that is considered to be a ground for Suspension.

Note: If related to a patient or patients at another health care provider not operated by the Healthscope Hospital, suspension must be determined by the General Manager as reasonably necessary. The information and issues are to be considered, with relevance to a need for suspension at the Healthscope Hospital established by the General Manager.

173 The General Manager shall notify the Accredited Practitioner:

173.1 of the Suspension of Accreditation;

173.2 of the period of Suspension;

173.3 of the reasons for the Suspension;

173.4 if the General Manager considers it applicable and appropriate in the circumstances, invite a written response from the Accredited Practitioner, including a response why the Accredited Practitioner may consider the Suspension should be lifted;

173.5 if the General Manager considers it applicable and appropriate in the circumstances, any actions that must be performed for the Suspension to be lifted and the period within which those actions must be completed; and

173.6 the right of appeal (noting there is no appeal available for an interim Suspension), the appeal process and the time frame for an appeal.

174 As an alternative to an immediate Suspension, the General Manager may elect to deliver a show cause notice to the Accredited Practitioner advising of:

174.1 the facts and circumstances forming the basis for possible Suspension;

174.2 the grounds under the By-Laws upon which Suspension occur;

174.3 invite a written response from the Accredited Practitioner, including a response why the Accredited Practitioner may consider Suspension is not appropriate;

174.4 if applicable and appropriate in the circumstances, any actions that must be performed for the Suspension not to occur and the period within which those actions must be completed; and

174.5 a timeframe in which a response is required from the Accredited Practitioner to the show cause notice.

175 Following receipt of the response (if any) to the show cause notice, the General Manager will determine whether the Accredited Practitioner will be Suspended. If Suspension is to occur, notification will be sent in accordance with By-Law 173. Otherwise the Accredited Practitioner will be advised that Suspension will not occur, however this will not prevent the General Manager from taking other action at this time, including imposition of Special Conditions, and will not prevent the General Manager from relying upon these matters as a ground for Suspension or Termination in the future.

176 The Suspension is ended either by Termination of the Accreditation or lifting the Suspension. This will occur by written notification by the General Manager.

177 The affected Accredited Practitioner shall have a right of appeal, other than from an interim Suspension where no appeal is available.

178 The General Manager will provide a copy of the notice of Suspension of Accreditation to the Chief Medical Officer and General Manager of any other Healthscope Hospital at which the Accredited Practitioner holds Accreditation and, absent special circumstances as determined and documented by the General Manager of the other Healthscope Hospital, the Suspension of Accreditation will automatically apply at the other Healthscope Hospital.

179 The General Manager may decide, in their absolute discretion, that the matters that have been raised regarding the Accredited Practitioner and the basis for Suspension are of sufficient concern to justify immediate notification to AHPRA, and/or other accrediting professional organisations. Such concerns may relate to, but are not limited to, legislated mandatory reporting requirements or the belief that it is in the public's (including patients at other health care organisations) or Patient's interest for such notification to be made.

180 Accredited Practitioners accept and agree that, as part of the acceptance of Accreditation, a Suspension of Accreditation carried out in accordance with these By-Laws is a safety and protective process rather than a punitive process, and as such it does not result in an entitlement to any compensation, including for economic loss or reputational damage.

Termination

181 Accreditation shall be immediately Terminated by the General Manager if the following has occurred, or if it appears based upon the information available to the General Manager the following has occurred:

181.1 the Accredited Practitioner ceases to be registered by AHPRA or the Medical / Dental Board of Australia (or other responsible board where applicable);

181.2 where the Accredited Practitioner's professional indemnity insurance or membership of a medical defence fund is cancelled, lapses or no longer adequately covers the Accredited Practitioner to the extent of his or her Scope of Practice, except where the Accredited Practitioner is an employee of Healthscope or the Healthscope Hospital and is covered for such Scope of Practice by insurances held by Healthscope;

181.3 a term or condition that attaches to an approval of Accreditation is breached, not satisfied, or according to that term or condition results in the Accreditation concluding; or

181.4 a contract of employment or to provide services is terminated or ends and is not renewed (and the Accredited Practitioner does not hold Accreditation unrelated to the services provided under this contract).

182 The Accreditation of an Accredited Practitioner may be Terminated by the General Manager, if the following has occurred, or if it appears based upon the information available to the General Manager the following has occurred:

182.1 based upon any of the matters in By-Law 172 and it is considered by the General Manager that Suspension is an insufficient response in the circumstances;

182.2 based upon a finalised Internal Review or External Review pursuant to these By-Laws and Termination of Accreditation is considered appropriate in the circumstances;

182.3 conditions have been imposed by the Accredited Practitioner's registration board or AHPRA and the General Manager is unable or unwilling to accommodate the conditions imposed;

182.4 the Accredited Practitioner has not exercised Accreditation or utilised the facilities at the Healthscope Hospital for a continuous period of 6 months without good reason communicated and accepted by the General Manager, or at a level or frequency as otherwise specified to the Accredited Practitioner by the General Manager;

182.5 the Scope of Practice is no longer supported by Organisational Capability and/or Organisational Need;

182.6 the Accredited Practitioner becomes permanently incapable of performing their duties, which shall for the purposes of these By-Laws be a continuous period of six months' incapacity;

182.7 serious and unresolved concerns or allegations have arisen in relation to the Accredited Practitioner. This may also be related to a patient or patients at another health care organisation, not operated by the Healthscope Hospital, and may relate to an ongoing review by an external agency including a registration board, disciplinary body, Coroner or a health complaints body;

182.8 the Accredited Practitioner has engaged in actions that would be considered Notifiable Conduct as defined by the National Law;

182.9 the Accredited Practitioner is convicted of a sex offence, violence offence or any offence which affects the Accredited Practitioner's practice as a Medical Practitioner or Dentist, or which relates to fraudulent and/or dishonest conduct;

182.10 it is determined that the Accredited Practitioner does not have the appropriate Current Fitness to retain the Scope of Practice granted or the General Manager does not have confidence in the continued Accreditation of the Accredited Practitioner. This could include failure to notify actions taken against them by another hospital or health service; and/or

182.11 there are other issues or other concerns in respect of the Accredited Practitioner that are considered to be a ground of Termination.

Note: If related to a patient or patients at another health care provider not operated by the Healthscope Hospital, termination must be determined by the General Manager as reasonably necessary. The

information and issues are to be considered, with relevance to a need for termination at the Healthscope Hospital established by the General Manager.

183 The General Manager shall notify the Accredited Practitioner:

183.1 of the fact of the Termination of Accreditation;

183.2 of the reasons for the Termination;

183.3 if the General Manager considers it applicable and appropriate in the circumstances, invite a written response from the Accredited Practitioner, including a response why the Accredited Practitioner may consider a Termination should not have occurred; and

183.4 If a right of appeal is available, the right of appeal, the appeal process and the time frame for an appeal.

184 As an alternative to an immediate Termination, the General Manager may elect to deliver a show cause notice to the Accredited Practitioner advising of:

184.1 the facts and circumstances forming the basis for possible Termination;

184.2 the grounds under the By-Laws upon which Termination may occur;

184.3 the opportunity to provide a written response from the Accredited Practitioner, including a response why the Accredited Practitioner may consider Termination is not appropriate;

184.4 if applicable and appropriate in the circumstances, advice in relation to any actions that must be performed for the Termination not to occur and the period within which those actions must be completed; and

184.5 a timeframe in which a response is required from the Accredited Practitioner to the show cause notice.

185 Following receipt of the response to the show cause notice, the General Manager will determine whether the Accreditation will be Terminated. If Termination is to occur, notification will be sent in accordance with By-Law 183. Otherwise the Accredited Practitioner will be advised that Termination will not occur, however this will not prevent the General Manager from taking other action at this time, including imposition of Special Conditions, and will not prevent the General Manager from relying upon these matters as a ground for Suspension or Termination in the future.

186 For a Termination of Accreditation pursuant to By-Law 181, there shall be no right of appeal.

187 For a Termination of Accreditation pursuant to By-Law 182, the Accredited Practitioner shall have the rights of appeal established by these By-Laws.

188 Unless it is determined not appropriate in the circumstances, the fact and details of the Termination will be notified to AHPRA and/or other accrediting professional organisations.

189 The General Manager will provide a copy of the notice of Termination of Accreditation to the Chief Medical Officer and all other General Managers of any other Healthscope Hospital at which the Accredited Practitioner holds Accreditation.

190 Termination of Accreditation at one Healthscope Hospital automatically results in Termination of Accreditation at all Healthscope Hospitals.

191 Accredited Practitioners accept and agree that, as part of the acceptance of Accreditation, a Termination of Accreditation carried out in accordance with these By-Laws is a safety and protective process rather than a punitive process, and as such it does not result in an entitlement to any compensation, including for economic loss or reputational damage. Following Termination of Accreditation, an Accredited Practitioner will, within 7 days, remove the fact of Accreditation or any matters suggesting an association between the Accredited Practitioner and Healthscope or the Healthscope Hospital from a website, social media or any other forums under the control of the

Accredited Practitioner, and will not disseminate any pre-existing documentation containing such references.

192 If an Accredited Practitioner has their Accreditation Terminated, they are precluded from applying for Accreditation at any Healthscope Hospital for a period of 3 years from the date of Termination of that Accreditation, unless a lesser period is approved by the Chief Medical Officer. The fact and circumstances of the Termination of Accreditation may still be taken into account after this period to assess a future grant of Accreditation and the terms of any grant of Accreditation at any Healthscope Hospital, and may be the sole determining factor in not granting Accreditation.

APPEALS

No Right of Appeal Unless Specifically Conferred

193 An Accredited Practitioner has no right of appeal from a decision made pursuant to these By-Laws unless it is specifically provided for in these By-Laws that an appeal is available.

194 Rights of appeal are specifically provided for as follows (exhaustive list):

194.1 pursuant to By-Law 102 if the General Manager decides to reject an application for Re-Accreditation;

194.2 pursuant to By-Law 162 relating to imposition of Special Conditions (except interim Special Conditions);

194.3 pursuant to By-Law 177 relating to Suspension of Accreditation (except interim Suspension of Accreditation); and

194.4 pursuant to By-Law 187 relating to Termination of Accreditation based upon the grounds in By-Law 182.

195 For the avoidance of any doubt, there is no appeal available from (non-exhaustive list):

195.1 pursuant to By-Law 17.4 relating to a decision to not grant access to the Healthscope Hospital or particular resources for the treatment and care of a Patient;

195.2 pursuant to By-Law 17.5 relating to availability of bed access, allocation of operating session time, allocation of any Patient or entitlement to any roster,

195.3 pursuant to By-Law 17.6 relating to the right of refusal for a particular treatment, use of resources or particular Patient, and attendance at the premises of the Healthscope Hospital;

195.4 pursuant to By-Law 61 relating to membership of the Medical Advisory Committee;

195.5 pursuant to By-Law 83 if on first receiving an application for Accreditation at a Healthscope Hospital, the General Manager rejects the application for Accreditation in his or her sole and absolute discretion;

195.6 pursuant to By-Laws 81, 85, 88, 89 and 97 for the specified decisions relating to Accreditation;

195.7 pursuant to By-Law 101 if the General Manager decides to reject an application for Accreditation;

195.8 pursuant to By-Law 115 relating to a decision of the General Manager regarding any aspect of Temporary Accreditation;

195.9 pursuant to By-Law 127 regarding the determination of the General Manager imposing interim Suspension of Accreditation or placing interim Special Conditions on Accreditation pending the outcome of a review;

195.10 pursuant to By-Law 157 regarding a formal warning;

195.11 pursuant to By-Law 160 regarding an Undertaking;

195.12 pursuant to By-Law 162 regarding imposition of interim Special Conditions;

195.13 pursuant to By-Law 177 regarding an interim Suspension; and

195.14 pursuant to By-Law 186 regarding Termination of Accreditation based upon a ground in By-Law 181.

Right to Appeal a Decision of a General Manager

196 Written notice of appeal must be submitted by the Accredited Practitioner to the General Manager within 14 days of the date the decision or matter under appeal was communicated to the Accredited Practitioner.

197 Lodgment of an appeal does not result in a stay of the decision under appeal and the decision will stand and be actioned accordingly.

198 If an Accredited Practitioner who has a right to appeal a decision of a General Manager under these By-Laws does not lodge an appeal in writing in accordance with the By-Laws and within the required timeframe, then the Accredited Practitioner's right of appeal is extinguished.

199 Upon receipt of a notice of appeal, the General Manager will forward the notice to the Chief Medical Officer within 7 days.

200 The Chief Medical Officer upon receipt of the notice of appeal will determine whether the appeal will be:

200.1 heard and determined by the Chief Medical Officer alone; or

200.2 the Chief Medical Officer will form an Appeal Committee to hear the appeal and make a recommendation to the Chief Medical Officer, and the appeal will then be determined by the Chief Medical Officer after consideration of the recommendation of the Appeal Committee.

201 If the Chief Medical Officer determines in the circumstances of a particular case that the Chief Medical Officer ought not hear and/or determine the appeal, then a member of the Board will fulfil the role of the Chief Medical Officer in By-Law 200 and the appeal provisions of these By-Laws will thereafter be read as referring to this Board member fulfilling this role wherever there is reference to the Chief Medical Officer.

202 If the appeal is to be heard and determined by the Chief Medical Officer alone, then the appeal process set out in these By-Laws will be modified and the By-Laws read to adjust for the circumstances of the Chief Medical Officer managing, hearing and determining the appeal alone, without an Appeal Committee.

203 If the appeal is to be heard and determined by the Chief Medical Officer alone, the Chief Medical Officer will be the final and binding decision maker. If this occurs, there is no further appeal available pursuant to the By-Laws from the decision of the Chief Medical Officer.

204 When hearing, making a recommendation regarding the appeal and/or determining the appeal, the Chief Medical Officer or Appeals Committee (as the case may be):

204.1 is confined to evidence that was before the General Manager at the time of making the decision;

204.2 may not consider new evidence, whether or not that evidence existed at the time the General Manager made the decision;

204.3 must decide whether, on the basis of the evidence that was before the General Manager at the time the General Manager made the decision, it was reasonably open for the General Manager to have made that decision;

Note: If the decision is that on the basis of the evidence that was before the General Manager at the time the General Manager made the decision, it was reasonably open for the General Manager to have made that decision, then the appeal will fail.

204.4 must set out his, her or its decision on the appeal in writing, and state the reasons for that decision.

205 For the avoidance of any doubt, the Chief Medical Officer or Appeals Committee does not stand in the position of the General Manager at the time and re-make the decision, but is to determine whether it was reasonably open for the General Manager to have made that decision on the basis of the evidence that was before the General Manager at the time.

Procedure for Appeal

206 The Chief Medical Officer will provide instructions regarding the appeal, establish an Appeal Committee to hear the appeal (if this is the decision of the Chief Medical Officer) and nominate members of the Appeal Committee.

207 The Chief Medical Officer will confirm in writing to the Accredited Practitioner and General Manager whether the appeal will be heard and determined by the Chief Medical Officer alone or whether the Chief Medical Officer will form an Appeal Committee to hear the appeal and make a recommendation to the Chief Medical Officer, and the appeal will then be determined by the Chief Medical Officer.

208 An Appeal Committee, if established, shall comprise at least three (3) persons nominated by the Chief Medical Officer, one of whom the Chief Medical Officer will decide will be the chairperson of the Appeal Committee, and each nominee must not be involved in making the decision under appeal, involved in matters the subject of the appeal or a current Accredited Practitioner of the relevant Healthscope Hospital.

209 Constitution of the Appeal Committee will be dependent on the matter under appeal and will be identified based upon the necessary skills and experience to determine the matter.

210 Before accepting the appointment, the nominees will confirm that they do not have a known Bias or conflict of interest or perceived conflict of interest with the appellant. It will not be sufficient to establish a Bias or conflict of interest or perceived conflict of interest that the nominee is an Accredited Practitioner of another Healthscope Hospital or within the same specialty as the appellant.

211 Once all members of the Appeal Committee have accepted the appointment, the appellant will be notified of the members of the Appeal Committee.

212 The General Manager (or delegate) will be responsible for providing to the Appeal Committee within 14 days of the notice of appeal being received, a submission explaining and in support of the decision, including why the General Manager contends that it was reasonably open for the General Manager to have made that decision on the basis of the evidence that was before the General Manager at the time.

213 Unless a shorter timeframe is agreed by the appellant and the Appeal Committee, the appellant shall be provided with at least 14 days' notice of the date for determination of the appeal by the Appeal Committee. The notice from the Appeal Committee will ordinarily set out:

213.1 the date for determination of the appeal;

213.2 the members of the Appeal Committee;

213.3 the process that will be adopted;

213.4 the material to be provided; and

213.5 an invitation to the appellant to make a submission about the decision under appeal within 14 days of provision to the appellant of the submission of the General Manager (or such additional period of time as determined appropriate by the Appeal Committee).

214 Subject to an agreement to confidentiality from the appellant, the chairperson of the Appeal Committee may provide the appellant with copies of material submitted by the General Manager and/or to be relied upon by the Appeal Committee, or alternatively, may decide that in the circumstances it is more appropriate to provide relevant excerpts from material or a summary.

215 The appellant will be given the opportunity to make a submission to the Appeal Committee, including with respect to the issues forming the basis for the decision under appeal, the action taken, and why the appellant contends that it was not reasonably open for the General Manager to have made that decision on the basis of the evidence that was before the General Manager at the time.

216 The Appeal Committee shall determine whether the submission by the appellant may be in writing or in person or both and the timeframe for submissions. Although in the discretion of the Appeal Committee, oral submissions may not be required unless there are specific questions or clarifications required by the Appeal Committee based upon the submissions and material submitted, or the Appeal Committee considers it necessary to test some or all of the submissions by the General Manager or appellant. The oral submissions are not to be regarded as a full hearing of the appeal.

217 If the Appeal Committee requires the General Manager (or delegate) to attend before the Appeal Committee to make oral submissions in support, the General Manager (or delegate) is entitled to be accompanied by a Support Person, who may be a lawyer, but that Support Person is not entitled to address the Appeal Committee. The appellant may be present, if considered appropriate by the Appeal Committee, but may not question or cross-examine the General Manager (or delegate).

218 If the Appeal Committee requires the appellant to attend before the Appeal Committee to answer questions and to make oral submissions, the appellant is not entitled to have formal legal representation. The appellant is entitled to be accompanied by a Support Person, who may be a lawyer, but that Support Person is not entitled to address the Appeal Committee. The General Manager (or delegate) may be present, if considered appropriate by the Appeal Committee, but may not question or cross-examine the appellant.

219 The appellant or General Manager shall not be present during Appeal Committee deliberations, except when invited to be heard in respect of the appeal, and is not entitled to minutes or notes of the Appeal Committee deliberations.

220 The chairperson of the Appeal Committee shall determine any question of process and procedure for the appeal, with questions of process and procedure entirely within the discretion of the chairperson of the Appeal Committee. Any deviations by the Appeal Committee from the established process that are regarded as not material will not result in a flawed process and appropriate actions and response to deviations will be as determined by the chairperson of the Appeal Committee.

221 The Appeal Committee will make a written recommendation regarding the appeal to the Chief Medical Officer, including provision of reasons for the recommendation. The recommendation may be made by a majority of the members of the Appeal Committee and if an even number of Appeal Committee members then the chairperson of the Appeal Committee has the deciding vote.

222 The Chief Medical Officer will decide the appeal if hearing and determining the appeal alone, or will consider the recommendation of the Appeal Committee and make a decision about the appeal in their absolute discretion.

223 When determining an appeal, the Chief Medical Officer or Appeals Committee (as the case may be):

223.1 is confined to evidence that was before the General Manager at the time of making the decision;

223.2 may not consider new evidence, whether or not that evidence existed at the time the General Manager made the decision;

223.3 must decide whether, on the basis of the evidence that was before the General Manager at the time the General Manager made the decision, it was reasonably open for the General Manager to have made that decision;

Note: If the decision is that on the basis of the evidence that was before the General Manager at the time the General Manager made the decision, it was reasonably open for the General Manager to have made that decision, then the appeal will fail.

223.4 must set out his, her or its decision on the appeal in writing, and state the reasons for that decision.

224 The decision of the Chief Medical Officer is final and binding, and there is no further appeal allowed under these By-Laws from this decision.

225 The decision of the Chief Medical Officer will be notified in writing to the General Manager (or delegate) and appellant as soon as is practicable after a decision is made.

226 If a notification has already been given to an external agency or agencies, then the General Manager (or delegate) will notify that external agency or agencies of the appeal decision. If a notification has not already been given, the General Manager (or delegate) will make a determination whether notification should now occur.

GENERAL CONDITIONS OF ACCREDITATION

Accreditation is Personal

227 The Accreditation of an Accredited Practitioner is personal and cannot be transferred to, or be exercised by, any other person.

Compliance with Scope of Practice

228 An Accredited Practitioner must only admit and treat Patients within their approved Scope of Practice.

Compliance with General Conditions and Special Conditions of Accreditation

229 Subject to By-Law 230, an Accredited Practitioner must comply with the General Conditions and any Special Conditions.

230 An Accredited Practitioner does not need to comply with a General Condition to the extent that the General Condition is inconsistent with any Special Condition.

Compliance with Laws, Policies and Professional Standards

231 An Accredited Practitioner must:

231.1 comply with:

231.1.1 these By-Laws;

231.1.2 all applicable laws and regulations concerning the provision of health care services to patients at private hospitals, that are applicable to the Accredited Practitioner and that are applicable to the local jurisdiction of the Healthscope Hospital;

231.1.3 the polices, rules and procedures of Healthscope;

231.1.4 the polices, rules and procedures of each Healthscope Hospital at which he or she is accredited; and

231.1.5 accepted professional and ethical standards and relevant codes of conduct (including, in the case of an Accredited Practitioner who is a Medical Practitioner, the *Good Medical Practice: a Code of Conduct for Doctors in Australia*);

231.2 comply with the law or requirements in place at the Healthscope Hospital with respect to working with children as deemed appropriate for the site and circumstances of the Accredited Practitioner and in accordance with any Healthscope or Healthscope Hospital policy;

231.3 provide appropriate proof of identity to the level required by the General Manager, which will be a minimum 100 points of verification;

231.4 comply with legal or Healthscope Hospital requirements relating to criminal history checks; and

231.5 accept responsibility for ensuring a safe workplace under applicable workplace and occupational health and safety laws, for themselves and for staff and all other people working at or engaged by or working at every Healthscope Hospital at which the Accredited Practitioner is accredited. This includes but is not limited to the health, safety and welfare as it relates to the work environment, facilities, substances, materials, equipment, ways of working, people, behaviour and psychosocial hazards. The responsibility extends to ensuring suitable consultation in relation to matters that affect people's health and safety, identifying and managing associated risks and implementing controls to eliminate or minimize risks. Under legislation these duties are not transferrable and the Accredited Practitioner remains personally accountable for compliance with legal requirements.

Note: While the requirements of By-Law 231 are a pre-requisite to Accreditation and an ongoing obligation during Accreditation, the working with children, proof of identity and criminal history checks must be in place before attendance at the Healthscope Hospital.

Cooperation with Hospital

232 An Accredited Practitioner must participate in and assist with hospital administrative practices in a timely manner, including as set out in more detail in subsequent By-Laws. This includes to enable each Healthscope Hospital at which he or she is accredited to collect revenue from appropriate sources for care provided, including but not limited to the Accredited Practitioner preparing in a timely manner comprehensive clinical documentation for all care provided, certificate completion and MBS items for all procedures and care provided during the Patient admission.

Appropriate Professional Indemnity Insurance Arrangements

233 An Accredited Practitioner must have Appropriate Professional Indemnity Insurance Arrangements in place.

234 Without limiting By-Law 233, the Appropriate Professional Indemnity Insurance Arrangements must:

234.1 indemnify the Accredited Practitioner in respect of the entirety of his or her Scope of Practice and for the nominated specialty;

234.2 have no exclusions or deductibles applicable or relevant to the Accredited Practitioner's Scope of Practice (unless any exclusion or deductible is approved in writing by the Chief Medical Officer); and

234.3 have a limit of indemnity which the General Manager believes to be adequate in the circumstances.

235 If requested by the General Manager of a Healthscope Hospital at which an Accredited Practitioner is Accredited, the Accredited Practitioner must provide the General Manager with a written authority, directed to the person underwriting or otherwise providing the Accredited Practitioner's Appropriate

Professional Indemnity Insurance, to provide to the General Manager evidence of the terms of the Appropriate Professional Indemnity Insurance, in the form of a certificate of currency stating the specialty, insurance limits, any conditions/limitations and the currency of the Appropriate Professional Indemnity Insurance.

Respect for Colleagues and Staff

236 An Accredited Practitioner must treat fairly and with respect:

236.1 all Accredited Practitioners and other Health Practitioners at every Healthscope Hospital at which the Accredited Practitioner is accredited; and

236.2 all staff and all other people working at or engaged by or working at every Healthscope Hospital at which the Accredited Practitioner is accredited;

236.3 including adhering to the expectations as set out in the Healthscope Code of Conduct.

237 An Accredited Practitioner must not abuse, assault (sexually or otherwise), bully, harass or intimidate any person referred to in By-Law 236, including compliance with the Healthscope Code of Conduct.

Conduct and Behavioural Obligations

238 Accreditation of an Accredited Practitioner shall be conditional upon the Accredited Practitioner maintaining a high standard of Professional Conduct and behaviour, and the Accredited Practitioner must at all times conduct themselves and behave at all times in accordance with:

238.1 the Behavioural Standards;

238.2 standards of ethical and Professional Conduct outlined in the Good Medical Practice: A Code of Conduct for Doctors in Australia, published by the Medical Board of Australia;

238.3 standards of ethical and Professional Conduct outlined in specialty college standards and guidelines (however described) applicable to that Accredited Practitioner;

238.4 Healthscope Values;

238.5 Healthscope and Healthscope Hospital codes, policies, procedures and guidelines relating to conduct and behaviour, including the Healthscope Code of Conduct;

238.6 applicable laws relating to conduct and behaviour, including anti-discrimination legislation; and

238.7 specific requests and directions made with regard to conduct and behaviour.

Note: The standard of conduct and behaviour may be set out in a Healthscope or Healthscope Hospital code, policy, protocol or guideline, however the process to manage conduct and behavioural is as set out in these By-Laws.

NOTIFICATION AND CONTINUOUS DISCLOSURE

Notification obligations

239 Accreditation of an Accredited Practitioner, and maintaining ongoing Accreditation, shall be conditional upon compliance with the following requirements, in particular, immediately notifying the General Manager of the Healthscope Hospital, and following up with written confirmation within 2 days, should:

239.1 The Accredited Practitioner be made aware of a notification, complaint, investigation or process that has been commenced or concluded in relation to the Accredited Practitioner or in relation to the Accredited Practitioner's provision of Patient care or research conduct.

This notification obligation extends to a notification, complaint, investigation or process commenced or concluded by the Accredited Practitioner's registration board, AHPRA, disciplinary body, Police, Coroner (excluding reportable deaths where the Coroner is able to advise that a cause of death certificate will be issued and no further action is to be taken by the Coroner), a health complaint body, or another statutory authority, State or Government agency or any other relevant body/organisation including those outside Australia. The notification obligation is irrespective of whether this relates to a Patient of the Healthscope Hospital or conduct at the Healthscope Hospital. The notification obligation extends to the outcome of any of the matters listed in this By-Law;

239.2 the Accredited Practitioner provide notification to the Coroner of a reportable death in relation to a Patient of the Healthscope Hospital (excluding reportable deaths where the Coroner is able to advise that a cause of death certificate will be issued and no further action is to be taken by the Coroner);

239.3 the Accredited Practitioner be involved in a serious incident at a Healthscope Hospital or service operated by the Healthscope Hospital;

239.4 there be a serious clinical incident involving a Patient under the care of the Accredited Practitioner at a Healthscope Hospital or service operated by the Healthscope Hospital;

Note: A serious clinical incident will include one in which harm has occurred or appears to have occurred to the Patient, whether that be physical or mental. The trigger for notification is harm or apparent harm (including short term harm), regardless of whether this was due to an error, act, omission or below standard care, and regardless of who may have caused the harm or apparent harm.

239.5 there be a workplace or occupational health and safety issue or incident at a Healthscope Hospital or service operated by the Healthscope Hospital;

239.6 the Accredited Practitioner receive a written complaint from a Patient of the Healthscope Hospital or person lodging a complaint on behalf of the Patient;

239.7 the Accredited Practitioner be served with court proceedings making a compensation claim in relation to a Patient of the Healthscope Hospital;

239.8 the Accredited Practitioner receive communication from a private health insurance fund, Medicare or Professional Services Review in relation to concerns or an investigation relating to services provided to a Patient of the Healthscope Hospital;

239.9 billing restrictions be replaced upon the Accredited Practitioner by Medicare or Professional Services Review;

239.10 any finding (including but not limited to criticism or adverse comment about the care or services provided or research undertaken by the Accredited Practitioner) be made in relation to or against the Accredited Practitioner by a civil court, the Accredited Practitioner's registration board, AHPRA, disciplinary body, Coroner, a health complaints body, or another statutory authority, State or Government agency, or any other relevant body/organisation. The notification obligation is irrespective of whether this relates to a Patient of the Healthscope Hospital or conduct at the Healthscope Hospital;

239.11 the Accredited Practitioner's professional registration be revoked or amended or limited, or should conditions be imposed, or should undertakings be agreed, or should a reprimand be issued, irrespective of whether this arose in relation to a Patient of the Healthscope Hospital and irrespective of whether this is noted on the public register or is privately agreed with a registration board;

239.12 the Accredited Practitioner's accreditation with a professional college as a supervisor and/or membership of a professional association be denied/withdrawn/restricted/made conditional in circumstances relevant for their Accreditation at the Healthscope;

239.13 the Accredited Practitioner be subject to any complaint and/or investigation relating to research conduct or a clinical trial, including a breach of research ethics, protocols or procedures;

239.14 the Accredited Practitioner's professional indemnity insurance be made conditional, reduced or not renewed, or should limitations be placed on insurance or professional indemnity coverage, or should the insurance taken up occur through the universal cover obligation (sometimes referred to as insurer of last resort obligation);

239.15 the Accredited Practitioner's accreditation, appointment, clinical privileges or scope of practice at any other hospital or day procedure centre be altered in any way, including if it is surrendered, withdrawn, declined, Suspended, Terminated, restricted, or made conditional, and irrespective of whether this was done by way of agreement;

239.16 any physical or mental condition / impairment or substance abuse problem or deterioration occur that could affect the Accredited Practitioner's ability to safely practise, or that would require any special assistance to enable him or her to practise safely and competently;

239.17 the Accredited Practitioner be charged with having committed or is convicted of any criminal offence, regardless of whether this relates to the provision of Patient or health care. The Accredited Practitioner must provide the Healthscope Hospital with an authority to conduct at any time a criminal history check with the appropriate authorities;

239.18 the Accredited Practitioner believe that Patient care or safety is being compromised or at risk, or may potentially be compromised or at risk, by another Accredited Practitioner of the Healthscope Hospital

239.19 the Accredited Practitioner make a mandatory notification to AHPRA in relation to another Accredited Practitioner of the Healthscope Hospital;

239.20 there be, or arise, any matters which have a material bearing upon their Credentials, Scope of Practice, or ability to deliver health care services to Patients safely;

239.21 the Accredited Practitioner's authority under a law of a state or territory to administer, obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of medicine be cancelled or restricted;

239.22 the Accredited Practitioner develop or become aware of an actual, potential, or perceived conflict of interest with Healthscope or the Healthscope Hospital, be it financial, commercial, legal, or professional; or

239.23 there arise any other matter or circumstance that has or may be reasonably expected to have a material bearing upon their eligibility to be Accredited or retain Accreditation under these By-Laws.

Continuous disclosure obligations

240 The Accredited Practitioner must keep the General Manager of the Healthscope Hospital continuously informed in writing of every fact and circumstances which is, or will likely be, relevant to:

240.1 any of the matters notified or that ought to have been notified in By-Law 239 above;

240.2 the Accreditation of the Accredited Practitioner;

240.3 the Scope of Practice of the Accredited Practitioner;

240.4 the ability of the Accredited Practitioner to safely deliver health services to his/her Patients within their Scope of Practice;

240.5 the Current Fitness of the Accredited Practitioner, including ill health (temporary or permanent);

240.6 the Accredited Practitioner's registration or professional indemnity insurance arrangements;

240.7 the ability of the Accredited Practitioner to resolve a medical malpractice claim by a Patient (for example the refusal by an insurer to cover a claim or the imposition of conditions or restrictions upon the coverage provided by an insurer for a claim or a significant increase in the deductible);

240.8 the reputation of the Accredited Practitioner;

240.9 the reputation of Healthscope or the Healthscope Hospital; or

240.10 the commencement, progress and outcome of compensation claims, coronial investigations or inquests, police investigations, Patient complaints (where the Accredited Practitioner seeks professional advice or notifies an insurer), health complaints body complaints or investigations including by the Health Complaints Commission, or other inquiries involving Patients of the Accredited Practitioner that were treated at the Healthscope Hospital or another health care organisation where accreditation or appointment is held. This requirement in By-Law 240.10 is subject to restrictions relating to or impacting upon legal professional privilege or statutory obligations of confidentiality.

CLINICAL RESPONSIBILITIES

Admission of Patients

241 The admission of an Accredited Practitioner's Patient to a Healthscope Hospital is subject to:

241.1 bed availability;

241.2 the availability or adequacy of nursing or allied health staff or facilities at the hospital;

241.3 service availability; and

241.4 Organisational Capability;

relevant to the type of treatment proposed by the Accredited Practitioner.

242 Except in an emergency (when a diagnosis or reasons for admission must be recorded as soon as practicable after admission), no Patient may be admitted to a Healthscope Hospital until a provisional diagnosis or valid reason for admission has been stated by the Accredited Practitioner who proposes to admit the Patient.

Operating and Procedure Facilities

243 Sessions for the use of operating and procedure rooms are not owned by the Accredited Practitioner, are determined in the sole discretion of the General Manager, are allocated by the General Manager to Accredited Practitioners on the basis that they will be fully utilised and may be reallocated by the General Manager (including if not adequately utilised).

Evidence-Based Clinical Practice

244 Healthscope requires the use of evidence-based clinical practice at Healthscope Hospitals and requires Accredited Practitioners to provide clinical care based upon best available evidence and/or standards of care that are well recognised by peers and in accordance with recognised professional and ethical standards.

245 Healthscope believe that national clinical guidelines developed collaboratively by organisations such as:

245.1 the National Health and Medical Research Council;

245.2 the Australian Commission on Safety and Quality in Health Care;

245.3 a College, professional association and other clinical professional organisations and societies;

represent the current clinical 'best practice' for many areas of medicine, and should whenever possible and practicable, be consulted for guidance to support informed clinical decision-making and the development of pathways of care that yield optimal clinical outcomes.

Consent Obligations

246 Accreditation of an Accredited Practitioner, and maintaining ongoing Accreditation, shall be conditional upon compliance with the following requirements:

246.1 Accredited Practitioners must provide and obtain fully informed consent for treatment from the Patient or their legal guardian or substitute decision maker (except where it is not practical in cases of emergency, see the below By-Law). This will occur in accordance with accepted medical and legal standards (including professional college guidelines, the Good Medical Practice: A Code of Conduct for Doctors in Australia and applicable legislation) and in accordance with the policy and procedures of Healthscope or the Healthscope Hospital.

246.2 For the purposes of this provision, an emergency exists where immediate treatment is necessary to save a person's life or to prevent serious injury to a person's health.

246.3 For the avoidance of any doubt, the requirements for fully informed consent applies to anaesthetic consent.

246.4 The consent will be evidenced in writing, will be signed by the Accredited Practitioner and the Patient or their legal guardian or substitute decision maker and will be compliant with the current policy and procedures of Healthscope or the Healthscope Hospital.

246.5 Fully informed consent will be obtained or directly supervised by the Accredited Practitioner under whom the Patient is admitted or treated.

Note: The consent process will ordinarily include an explanation of the Patient's condition and prognosis, treatment and alternatives, inform the Patient of material risks associated with treatment and alternatives, following which consent to the treatment will be obtained.

Note: The Accredited Practitioner will take all reasonable steps to ensure that the Patient has the appropriate level of understanding regarding the treatment as part of the process of obtaining fully informed consent, as well as responding to questions raised by the Patient.

246.6 The consent process must satisfy Healthscope and/or the Healthscope Hospital's requirements from time to time as set out in its policy and procedures.

Note: Healthscope and/or the Healthscope Hospital have a form in place that discharges its own obligations relating to consent and in order for appropriate checks to be carried out at the time of admission. The Healthscope and/or the Healthscope Hospital form requires the Accredited Practitioner to certify that he or she has discharged the Accredited Practitioner's non-delegable duty to provided informed consent to the Patient. The legal requirement for an Accredited Practitioner to obtain fully informed consent and written evidence will likely involve the Accredited Practitioner undertaking additional actions in addition to completion of the Healthscope and/or the Healthscope Hospital form and retaining documentation of this in the Accredited Practitioner's own private consultation records. While Healthscope

and/or the Healthscope Hospital encourages completion of the approved form in place at the Healthscope Hospital, with consent of the General Manager, the Accredited Practitioner may submit their own consent form to the Healthscope Hospital so long as it contains all information, certifications and consents required by the Healthscope Hospital.

246.7 Unless in exceptional circumstances approved by the General Manager, admissions will not be accepted or surgery/procedures will not proceed until complete compliance with Healthscope and/or Healthscope Hospital consent processes and documentation has occurred.

Note: Non-compliance includes, but is not limited to, provision of incomplete documentation, unsigned documentation, incomplete signed documentation, or if there is not a match between the documentation that has been supplied and the information obtained from the Patient.

246.8 The obligations in this By-Law include the Accredited Practitioner providing to the Patient or their legal guardian or substitute decision maker all necessary information to make informed decisions about their care, in accordance with the principle of Patient autonomy.

246.9 If, following completion of the surgery/procedure, it has been identified that there is not a complete match between the surgery/procedure actually performed and that which was planned or that which was documented as intended to be performed, this will be immediately notified by the Accredited Practitioner to the General Manager, regardless of whether notification of the discrepancy has also been made by Healthscope Hospital staff. The Accredited Practitioner will provide all necessary and requested assistance to resolve the discrepancy or address the issue that has occurred.

Note: Notification will occur not only if there is an apparent divergence between what was planned and that performed, but if additional surgeries/procedures appear to have been performed or if planned surgeries/procedures appear not to have been performed.

Clinical Obligations

247 Accreditation of an Accredited Practitioner, and maintaining ongoing Accreditation, shall be conditional upon compliance with the following requirements:

247.1 Admitting and/or treating Patients only within the Accreditation and Scope of Practice granted, including any terms or conditions attached to the approval of Accreditation.

Note: Accredited Practitioners will seek approval through the applicable By-Law process for any variation to approved Scope of Practice.

247.2 Not providing services, care or treatment outside of the licence or defined service capability of the Healthscope Hospital.

247.3 Accredited Practitioners who admit Patients to the Healthscope Hospital or who provide care to admitted Patients of the Healthscope Hospital, will be at all times responsible for the care of the Patient and must ensure that they are available to treat and care for those Patients at all times. This includes attendance on site to see their Patients and being contactable and available by telephone to Healthscope Hospital staff and other Accredited Practitioners, within a clinically acceptable period of time. If this is unable to occur, then the Patient should not be admitted.

247.4 If an Accredited Practitioner is unable or unavailable, for whatever reason, to provide continuity of care for a Patient, including pursuant to the requirements set out above, the Accredited Practitioner must have adequate clinical cover in place when absent or on leave, must ensure appropriate back-up is in place and must notify the Healthscope Hospital administration of the name of an alternate Accredited Practitioner to whom the care of the

Patient or Patients has been delegated (with sufficient Scope of Practice) and over what period of time. Arrangements must be communicated and documented in the way prescribed by the Healthscope Hospital. If this is unable to occur, then the Patient should not be admitted.

247.5 Reviewing and attending in person upon all Patients admitted by them:

247.5.1 as frequently as is required by the clinical circumstances of those Patients and as would be regarded as clinically appropriate in the circumstances;

247.5.2 as reasonably requested by the appropriate Healthscope Hospital staff;

247.5.3 as reasonably requested by another Accredited Practitioner; and

247.5.4 as reasonably requested by a Patient or family member of a Patient.

247.6 Absent special circumstances or where circumstances as set out in the above By-Law require an earlier review and attendance, an Accredited Practitioner:

247.6.1 will initially review a Patient in person within 24 hours of the Patient being admitted under the Accredited Practitioner. Prior to the initial attendance, the Accredited Practitioner will provide adequate information and written instructions to Healthscope Hospital staff for management of the Patient;

247.6.2 will thereafter review the Patient in person not longer than 24 hours from the prior review by that Accredited Practitioner, or alternatively, this obligation may be performed by another Accredited Practitioner involved in the treatment of the Patient; and

247.6.3 will secure the agreement of another Accredited Practitioner (including through locum or on-call arrangements) and notify the Healthscope Hospital of this arrangement, if the Accredited Practitioner is unable to personally provide the above level of care.

247.7 Accepting if Healthscope Hospital staff caring for an inpatient are unable to contact the Accredited Practitioner or on-call/locum cover within what the Healthscope Hospital staff considers to be a clinically acceptable period of time, that Healthscope Hospital staff may escalate in accordance with any escalation policy, and may utilise alternative arrangements available through the Healthscope Hospital.

247.8 Prior to taking a period of leave, notifying the relevant contact at the Healthscope Hospital, ensuring adequate clinical cover is in place (with an Accredited Practitioner who has sufficient Scope of Practice), ensuring that adequate handover has occurred and where possible avoiding undertaking major surgery or procedures in circumstances where post-procedure care is to be transferred to locum cover or an on-call Accredited Practitioner.

247.9 Locum cover must be approved in accordance with these By-Laws and the Accredited Practitioner must ensure that the locum carries sufficient Scope of Practice for the care required, that the locum's contact details are made available to the Healthscope Hospital staff and all relevant persons are aware of the locum cover and the dates of locum cover.

247.10 Participating in agreed formal on-call and roster arrangements, as required by the Healthscope Hospital and working collaboratively with the Healthscope Hospital to organise and ensure on-call rosters are completely filled, ensuring sufficient after-hours support is in place and ensuring appropriate back-up is in place.

Note: The Healthscope Hospital will determine the requirements for on-call and rosters, taking into account Patient safety, continuity of care, anticipated service demand, Organisational Capability, Organisational Need and private hospital licensing. The Accredited Practitioner will work collaboratively with the Healthscope Hospital to organise

and ensure on-call rosters are completely filled, ensure sufficient after-hours support is in place and ensure appropriate back-up is in place.

247.11 Subject to clinical considerations, complying with all reasonable requests with regard to the procurement and use of medical supplies, prostheses and equipment and the provision of services at the Healthscope Hospital. To ensure efficient use of Healthscope Hospital resources, the Healthscope Hospital makes available certain medical supplies, drugs, prostheses and equipment. Accredited Practitioners are expected, where at all possible, to utilise the medical supplies, prostheses and equipment that are made available, and to do this in an efficient way to minimise wastage and generation of unnecessary costs. If certain high cost or high value medical supplies, drugs, prostheses or equipment are required, absent an emergency, a written request may be submitted through the appropriate channels which will include clinical indication, why existing resources are not satisfactory, overall cost, reimbursement (if any) under funding arrangements and any co-payments.

247.12 Accredited Practitioners transferring Patients to other health care providers or to another Healthscope Hospital will take all reasonable steps to ensure that the Patient is transferred safely and that the arrangements to support the Patient's care during transfer and at the time of arrival to the other provider, have been established with the relevant clinical teams involved (transferring and receiving teams).

247.13 Accredited Practitioners accepting care of Patients transferred from other hospitals or locations will take all reasonable steps to ensure that the Patient is transferred safely, that arrangements to support the Patient's care have been established in advance with the admitting clinical department and all necessary information and documentation is provided prior to or at the time of admission. Necessary arrangements include immediate clinical review, assessment and documentation (including relevant history, treatment plan and instructions) on admission of the Patient, which may occur through the care plan established by the Accredited Practitioner or upon request being made for this to occur by the admitting Healthscope Hospital staff.

247.14 Accredited Practitioners must familiarise themselves with, support, and strictly adhere to Healthscope and Healthscope Hospital policies and procedures with respect to Patient deterioration.

247.15 Accredited Practitioners must consider their own potential fatigue and that of other staff involved in the provision of Patient care, when making Patient bookings and in utilising operating theatre and procedure room time. Accredited Practitioners will require prior approval of the General Manager or relevant Service Manager (or delegate) if the Patient bookings appear likely to run over the scheduled end of session. The General Manager and relevant Service Manager (or delegate) will consider safety issues (as they relate to the Accredited Practitioner, staff and Patients) and will have the discretion to cease the operating theatre/procedure session or further cases if not reasonably satisfied about safety issues that may arise from continuation of the session or performance of further cases.

247.16 Ensuring that any changes to contact details are notified promptly to the General Manager and this is recorded in any other document prescribed by the Healthscope Hospital for documenting and communicating such changes.

247.17 Ensuring that their communication devices are functional and that appropriate alternative arrangements are in place to contact them or to contact their arrangements for cover with another Accredited Practitioner, if they are for whatever reason not contactable or their communication devices need to be turned off for any reason or fail to function for a period of time.

247.18 Accredited Practitioners are required to work with and as part of a multi-disciplinary health care team, must participate in multi-disciplinary meetings and must ensure the requirements

for Patient care are established and understood by the team through verbal and written communication, documentation, involvement of and consultation with appropriate medical and other expertise, and provision of adequate clinical handovers to facilitate the best possible care for Patients. It is the Accredited Practitioner's responsibility to arrange referrals/consults/engagement of other specialists for safe delivery of Patient care; this includes surgeons and proceduralists being responsible for engaging anaesthetists to provide anaesthetic services for Patients under their care. For shared care arrangements, it is the admitting Accredited Practitioner's responsibility to ensure that the health care team is clear about the division of responsibility for management of the Patient care, however this does not abrogate the admitting Accredited Practitioner's overall responsibility for the Patient while admitted to the Healthscope Hospital.

247.19 Accredited Practitioners (including their on-call and locum cover) must at all times be aware of the importance of effective communication with other members of the health care team, referring doctors, the Healthscope Hospital executive, Patients and the Patient's family/carers or next of kin. Accredited Practitioners must at all times ensure appropriate, timely communication has occurred, adequate information has been provided, and questions or concerns have been adequately responded to.

247.20 Accredited Practitioners must provide adequate supervision to more junior practitioners involved in care (including when assisting in surgery or involved in ward care). The frequency and extent of supervision will depend on the level of experience of the more junior practitioner and the complexity of Patient care required. The Accredited Practitioner retains ultimate responsibility for Patient care, regardless of whether more junior practitioners are involved. Involvement of a more junior practitioner does not abrogate the non-delegable duty of care of the Accredited Practitioner, unless formal handover of the Patient has occurred to another Accredited Practitioner.

247.21 Accredited Practitioners will comply with the following requirements for surgery:

247.21.1 the Healthscope Hospital has the right to allocate theatre and procedural suite access and time as it sees fit and retains the right to re-allocate theatre/procedural suite sessions, depending upon its needs and expectations;

247.21.2 in making decisions about the matters set out above, it is expected that Accredited Practitioners will effectively utilise allocated theatre/procedural suite sessions that have been made available to the Accredited Practitioner, to the satisfaction of the Healthscope Hospital and in accordance with any Healthscope / Healthscope Hospital bookings policy and principles that are in place. This includes but is not limited to:

(a) commencing theatre/procedure lists or sessions on time;

(b) concluding theatre/procedure lists or session on time;

(c) utilising allocated lists as per policy;

(d) advising of leave and cancellation of lists with sufficient notice;

247.21.3 Accredited Practitioners are permitted to only utilise surgical assistants who are appointed pursuant to By-Law 252.

247.21.4 Accredited Practitioners accept complete responsibility for, and must directly supervise, surgical assistants who assist the Accredited Practitioner with surgical and other procedures;

247.21.5 Accredited Practitioners must obtain consent for any persons not directly involved in the surgery or assisting the surgery to be present, which includes product representatives, students and medical proctors;

247.21.6 Accredited Practitioners must consider their own potential fatigue and that of other staff involved in the provision of Patient care, when making Patient bookings and in utilising operating theatre and procedural time. This includes the total number of Patients, number of consecutive Patients in one day or on a list, number of consecutive working days, total hours worked in a day and over the preceding days, responsibilities at other health facilities and matters unrelated to surgery that have an impact on fatigue;

247.21.7 Absent an unexpected occurrence or emergency on a particular day, for elective surgery to commence beyond the allocated session time, including an after-hours elective surgery start time for the particular Healthscope Hospital, requires the written approval of the General Manager or relevant Service Manager (or delegate, including executive on call) who will consider safety issues (as they relate to the Accredited Practitioner, staff and Patients) and will have the discretion to no approve the case proceeding.

247.21.8 Accredited Practitioners must familiarise themselves with and strictly adhere to Healthscope and Healthscope Hospital policies with respect to consent, surgical safety and speaking up for safety. This includes but is not limited to:

(a) completing and participating in pre-procedure and pre-anaesthetic checks;

(b) leading team time out and end of procedure checks;

(c) allowing Hospital staff sufficient time to complete surgical safety requirements; and

(d) respecting and appropriately responding to speaking up for safety

Note: There will be zero-tolerance for non-compliance with the above significant safety requirements, with serious consequences to the Accredited Practitioner pursuant to these By-Laws for non-compliance.

247.21.9 Accredited Practitioners performing the surgery or procedure, subject to the exception noted in this By-Law, must personally make the surgical site marking, which must be visible in the surgical field, and must otherwise comply with the relevant Healthscope policy. The exception being that the site may be marked by a Credentialed surgical assistant or another Accredited Practitioner involved in the surgery or procedure, which is to occur under the supervision of the Accredited Practitioner performing the surgery or procedure, however this does not abrogate the non-delegable duty of care of the Accredited Practitioner performing the surgery or procedure from ultimate responsibility in relation to site marking.

247.22 Where an Accredited Practitioner removes a specimen from a Patient during a procedure:

247.22.1 if for a teaching purpose, consent must be obtained from the Patient in advance;

247.22.2 the relevant tissue legislation in the State or Territory must be complied with;

247.22.3 the specimen must be sent to a pathologist for such examination necessary to arrive at a tissue diagnosis; and

247.22.4 the authenticated report prepared by the pathologist must be included in the Patient's Healthscope Hospital medical record as soon as practicable after it is received.

247.23 Accredited Practitioners must facilitate appropriate and timely discharge of their Patients to promote efficient and effective use of the Healthscope Hospital’s resources. Patients will be discharged only with the written approval of the Accredited Practitioner, who shall comply with the discharge policy of the Healthscope Hospital and complete all relevant discharge

documentation (including medication, discharge plan and instructions, with copies to be included in the Healthscope Hospital medical record). It is the responsibility of the Accredited Practitioner to ensure that all information reasonably necessary to ensure continuity of care after discharge is provided to the referring practitioner, general practitioner and/or other treating practitioner, with a copy of this written communication included in the Healthscope Hospital medical record.

247.24 Accredited Practitioners must engage and collaborate with other Medical Practitioners appropriately with respect to the care of the Patient. This includes when required to attend in person by another Health Practitioner, for example within the Emergency Medicine Department and the Intensive Care / Critical Care Unit.

247.25 Accredited Practitioners must obtain a second opinion when Patient or family members require a second opinion and when the clinical progress of the Patient is not anticipated and concerns regarding the Patient's diagnosis and or the treatment are raised.

Clinical Governance, Safety and Quality Obligations

248 Accreditation of an Accredited Practitioner, and maintaining ongoing Accreditation, shall be conditional upon compliance with the following requirements and expectations:

248.1 Actively assisting Healthscope and the Healthscope Hospital to comply with clinical governance requirements, safety and quality initiatives, performance objectives, policies/ procedures and frameworks.

Note: This includes incident reporting (including in accordance with the relevant incident policy and ensuring an appropriate person has lodged a notification through the incident reporting system in place at the Healthscope Hospital), hand hygiene, infection prevention and control, medication prescribing, safety in surgery, clinical handover, prescribing blood and blood products, recognising and responding to clinical deterioration, actively supporting speaking up for safety, and involvement of Patients and carers in decisions related to care planning and communicating for safety.

248.2 Actively assisting Healthscope and the Healthscope Hospital to comply with accreditation standards or other requirements applying to Healthscope or the Healthscope Hospital and contractual requirements imposed upon Healthscope or the Healthscope Hospital relating to safety, quality, adverse events, preventable events and other events.

Note: This includes those standards and requirements of the Australian Commission on Safety and Quality in Health Care, Departments of Health (Commonwealth and State), private health insurers and public health funders.

Note: This includes actively assisting Healthscope or the Healthscope Hospital in any external accreditation or audit process, including to rectify any identified issues or non-compliance.

248.3 Complying with all Healthscope and/or Healthscope Hospital requirements that are in place to optimise Patient outcomes and Patient experience.

Note: Accredited Practitioners will comply with and take all reasonable actions to facilitate their implementation including, but not limited to: the use of any defined clinical guidelines; adherence to any Healthscope clinical governance framework as established from time to time; and participating in education and training as required by Healthscope or the Healthscope Hospital from time to time.

248.4 Participating and actively engaging in review of their own Clinical Practice including peer review and audit focused on safety, quality, reducing unwarranted variation and meeting

expected standards of Patient care. Where formal Morbidity and Mortality review processes (howsoever called) are in place, an Accredited Practitioner must:

248.4.1 attend at least 50% of these meetings with apply to the Accredited Practitioner's specialty or craft group;

248.4.2 if the Accredited Practitioner has a case listed for review, the Accredited Practitioner must present the case in person and actively engage with attendees.

Note: This By-Law includes a requirement to attend, provide all relevant information to, and actively participate in internal audit, engage with clinical registries, and engage with required external audit of outcomes and mortality.

Note: Peer review will be consistent with relevant College guidelines and the Australian Commission on Safety and Quality in Health Care guidelines and Standards.

248.5 Engaging with representatives of Healthscope and the Healthscope Hospital to monitor variation in the Accredited Practitioner's practice and performance against expected health outcomes, to receive feedback on variation in practice and health outcomes, to review performance against external measures, to engage in any review or audit of that Accredited Practitioner's practice and to inform improvements in safety and quality systems.

248.6 Not engaging in any conduct that may be perceived, regardless of the intention of the Accredited Practitioner, as a reprisal against another person for making a report or supplying information relating to issues of safety, quality or behaviour of the Accredited Practitioner or about a Patient of the Accredited Practitioner (including as part of any speaking up for safety initiative in place at the Healthscope or the Healthscope Hospital).

248.7 Complying and fully cooperating with any Healthscope or Healthscope Hospital review of incidents, complications, adverse events (including as set out in lists prepared by private health insurers/health funds and public health funders) and complaints management (including in relation to the Accredited Practitioner's Patients) in accordance with the policy and procedures at Healthscope and the Healthscope Hospital and where required by the General Manager.

248.8 Assisting with Healthscope or Healthscope Hospital incident management, investigation and reviews (including root cause analysis, system reviews, or as required by health funders), facilitating and participating in open disclosure and duty of candour processes, or any other requirement of Healthscope or the Healthscope Hospital relating to review of Patient care and outcomes.

248.9 Participating in risk management activities and programs as reasonably required by Healthscope or the Healthscope Hospital, including the implementation of risk management strategies and recommendations arising from system reviews and root cause analysis.

248.10 Providing requested information and assistance in circumstances where Healthscope or the Healthscope Hospital requires information and assistance from the Accredited Practitioner to fully investigate a clinical incident, Patient outcome or any other event, and to respond to a statutory complaints authority.

Note: This includes the provision of medical and other reports and any copies of relevant documentation or correspondence.

248.11 Providing requested information and assistance to permit Healthscope and the Healthscope Hospital to comply with, or respond to, a legal request or direction or contractual obligation.

Note This includes pursuant to a court order, from a health complaints body, AHPRA, Coroner, Police, State Health Department, its agencies or departments, State Private Health Regulatory/Licensing Units, Commonwealth Government and its agencies or departments, or private health insurers/health funds.

248.12 Providing requested information and assistance in circumstances where Healthscope or the Healthscope Hospital is undertaking investigation into the conduct of research or clinical trial within the Healthscope Hospital or where there is another relevant organisation or regulatory body undertaking a research investigation.

248.13 Providing requested information about the Accredited Practitioner in circumstances where Healthscope or the Healthscope Hospital reasonably requires that information for clinical governance, safety or other purposes relating to its operations. For example, this may include vaccination or immunisation information relating to the Accredited Practitioner.

248.14 Participating in and sharing outcome data from Clinical Quality Registries, unless this is subject to qualified privilege and not able to be shared.

248.15 Assisting Healthscope and the Healthscope Hospital with its functions and objectives, and personally engaging in continuous education, reflection and improvement, through membership of and active participation in committees and clinical specialty groups. The functions, objectives and engagement will include:

248.15.1 developing , implementing and reviewing policies, protocols, pathways, decision support tools and best practice guidelines in clinical areas to support best practice on the best available evidence;

248.15.2 participating in medical, nursing and other training and education programs;

248.15.3 supporting Healthscope's or the Healthscope Hospital's accreditation activities;

248.15.4 clinical oversight;

248.15.5 peer review, including but not limited to review of clinical outcomes and statistics relating to their own cases and cases of other Accredited Practitioners, and performance appraisal;

248.15.6 audit of outcome and processes of care; and/or

248.15.7 supporting safety and quality initiatives and programs of Healthscope, the Australian Commission on Safety and Quality in Health Care (including clinical care standards), State Health Department, its agencies or departments.

Continuing Professional Development and Mandatory Training

249 An Accredited Practitioner must participate in continuing professional development programmes and mandatory training concerning his or her discipline or specialty as required by their College or professional association, and as required by relevant accreditation and licensing obligations of the Healthscope Hospital. At the time of providing the annual professional indemnity insurance confirmation (or earlier, if requested), the Accredited Practitioner will provide every Healthscope Hospital at which he or she is Accredited with evidence of his or her participation in those continuing professional development programmes and evidence of mandatory training, including mandatory training carried out at other organisations.

Documentation Obligations

250 Accreditation of an Accredited Practitioner, and maintaining ongoing Accreditation, shall be conditional on the following requirements being met:

250.1 Maintaining full, accurate, informative and legible records (inclusive of pathology, radiology, other investigative reports and discharge summaries) in the Healthscope Hospital Patient record. This requirement applies to each attendance upon the Patient, procedures, orders, instructions and consent. The entries will include date and time to be signed and contained in the Healthscope Hospital Patient record. The entries must be sufficient to allow

any person involved in care, at any point in time, to understand the Accredited Practitioner's instructions, orders and treatment plan. The records will comply with Good Medical Practice: A Code of Conduct for Doctors in Australia, Healthscope and the Healthscope Hospital policy requirements, legislative requirements, State based standards, standards set for hospital accreditation and health fund obligations.

250.2 Ensuring that documentation requirements as set out in this By-Law 250, or elsewhere in these By-Laws, are completed contemporaneously or in real time to the specific episode of care/interaction/action, and available in the Healthscope Hospital medical record for access from other members of the treating, executive or administrative team. If for good reason this timeframe cannot be met, ensuring that it is recorded promptly thereafter in the Healthscope Hospital medical record, and in the meantime any critical issues or information are communicated to the treating team.

Note: Accredited Practitioner adherence to documentation obligations is critical, therefore non-adherence to the documentation obligations or repeated requirements for follow up will be regarded as serious and the action to be taken pursuant these By-Laws will be correspondingly serious.

250.3 Complying with Commonwealth, State or Territory obligations relating to recording keeping and information to be included in the Healthscope Hospital Patient record.

250.4 Access to and use of Healthscope Hospital Patient records is compliant with privacy and confidentiality obligations owed to the Patient. Arising from this, Accredited Practitioners may only access and if necessary, obtain a copy of Healthscope Hospital Patient records to facilitate the on-going care of the Patient. In addition, to comply with privacy and confidentiality obligations set out in the By-Laws and in accordance with legal obligations, if access to or copies of Healthscope Hospital Patient records is sought for a purpose other than ongoing care of the Patient, the Accredited Practitioner will ensure that they obtain the written consent of the Patient and the Healthscope Hospital.

250.5 Acting at all times on the basis of, and acceptance that, ownership and copyright of entries contained in the Healthscope Hospital Patient records vests in Healthscope.

250.6 Ensuring a procedure report is completed, including a detailed account of the procedure or procedures undertaken, findings, procedural techniques undertaken, complications and post procedure orders.

250.7 Ensuring an anaesthetic report is completed (where an anaesthetic is administered to a Patient), including documentation of the pre-anaesthetic evaluation, fully informed anaesthetic consent, post-anaesthetic evaluation, complications and post anaesthetic orders.

250.8 Documenting any verbal order in the Healthscope Hospital Patient records in a timely manner.

250.9 Ensuring any electronic communication relating to Patient clinical management is recorded in the Healthscope Hospital Patient records in a timely manner.

250.10 Routine or standing orders are to be reproduced in detail on the order sheet of the Patient's Healthscope Hospital medical record, and dated and signed by the Accredited Practitioner.

250.11 All medical imaging and pathology reports are included in a Patient's Healthscope Hospital medical record within 24 hours of receipt. Before being included in the record, the report must be initialed or otherwise endorsed signifying that it has been sighted by the requesting Accredited Practitioner

250.12 Ensuring a discharge summary is completed (compliant with any Healthscope and Healthscope Hospital policy and procedures) that includes all relevant information

reasonably required by the referring practitioner, general practitioner or other treating practitioner for continuity and ongoing care of the Patient.

250.13 When a Patient chooses to leave a Healthscope Hospital at which he or she is admitted against the advice of an Accredited Practitioner:

250.13.1 a notation of this fact is made in the Patient's Healthscope Hospital medical record;

250.13.2 whenever possible, the Patient should be asked to sign the notation; and

250.13.3 any refusal by the Patient to sign such a notation should be recorded in the Patient's Healthscope Hospital medical record.

Note: These details should whenever possible be countersigned by a second person, such as a member of the hospital's nursing staff.

250.14 In the event of a Patient's death:

250.14.1 the death must be confirmed and recorded by the Accredited Practitioner responsible for the Patient or his or her approved delegate as soon as possible; and

250.14.2 the policies for the release of cadavers from the Healthscope Hospital where the Patient died must conform to local government and State government laws applicable to the jurisdiction of that hospital.

250.15 Being responsive to any organisational review and feedback about clinical documentation of the Accredited Practitioner, including where this is to facilitate improved written communication and capture of clinical assessment, interventions and Patient outcomes for clinical coding.

250.16 Utilising any electronic medical record and e-health technology (including prescribing) that may be in place.

250.17 Not destroying any medical record or part of a medical record of the Healthscope Hospital or removing the medical record or part of the medical record of the Healthscope Hospital.

250.18 If technology is being utilised to facilitate communication by the Accredited Practitioner between the health care team or with Patients, ensuring that:

250.18.1 the technology is managed in accordance with any applicable Healthscope and Healthscope Hospital policy and procedure, including any required approval before use of the technology or category of technology;

250.18.2 privacy and confidentiality obligations of the Patient are strictly adhered to (including pursuant to the *Privacy Act (Cth)*); and

250.18.3 the communication is additionally documented in a timely and comprehensive way in the Healthscope Hospital Patient record.

250.19 Recording all data required by Healthscope and the Healthscope Hospital to meet health fund obligations, collect revenue and allow compilation of health care statistics, and that is sufficient to allow clinical coding to occur.

Note: Completion of required documentation is required by Healthscope and/or the Healthscope Hospital for billing, invoicing, and other health fund requirements, to ensure Healthscope and/or the Healthscope Hospital is able to be correctly paid and to comply with health fund requirements.

250.20 Ensuring that all Pharmaceutical Benefits Scheme prescription requirements and financial certificates are completed in accordance with Healthscope or Healthscope Hospital policy and procedures and regulatory requirements.

250.21 Responding in a timely manner to queries, requests for information and completion of documentation relating to the matters set out in this By-Law.

Operational Obligations

251 Accreditation of an Accredited Practitioner, and maintaining ongoing Accreditation, shall be conditional upon compliance with the following requirements:

251.1 Efficient use of resources, including facilities, theatres and support services.

251.2 Maintaining a sufficient level of clinical activity to enable the General Manager to be satisfied that:

251.2.1 the Accredited Practitioner's knowledge and skills are current; and

251.2.2 the Accredited Practitioner is familiar with the operational policy, procedures and practices of the Healthscope Hospital and Healthscope.

251.3 Contributing to the growth and development of their Healthscope Hospital(s) through actions or activities, as reasonably requested from time to time.

251.4 Not representing or purporting to communicate on behalf of the Healthscope Hospital or Healthscope, in any circumstances, including through engagement with media or social media, or through the use of Healthscope Hospital or Healthscope letterhead or use of the name "Healthscope" in business names (registered or unregistered), unless with the express written permission of the General Manager.

Surgical Assistants

252 A Medical Practitioner accredited as a surgical assistant:

252.1 must meet eligibility criteria in place at the Healthscope Hospital (if any) relating to surgical assistants;

252.2 must be Accredited at the Healthscope Hospital with a Scope of Practice that includes surgical assistance;

252.3 cannot be a medical device or product representative, unless Accredited at the Healthscope Hospital with a Scope of Practice that includes surgical assistance;

252.4 cannot be a student;

252.5 cannot admit a Patient;

252.6 must practise under the supervision of the Accredited Practitioner who admitted the Patient or the Accredited Practitioner performing the surgery;

252.7 may assist in theatre and visit a Patient in ward areas;

252.8 may examine a Patient's Healthscope Hospital medical records;

252.9 cannot initiate or change a treatment order relating to a Patient;

252.10 may have his or her Scope of Practice limited to a particular specialty or surgeon;

252.11 must not:

252.11.1 assume or be assigned the care of a Patient in place of another Medical Practitioner;

252.11.2 prescribe medication for a Patient;

252.11.3 complete or witness consent for procedures;

252.12 must not perform intraoperative tasks generally considered to be the responsibility of and require the training, experience, qualifications and skills of the principal operating surgeon; and

252.13 may perform site marking under the supervision of the Accredited Practitioner performing the surgery or procedure, however this does not abrogate the non-delegable duty of care of the Accredited Practitioner performing the surgery or procedure from ultimately responsibility in relation to site marking.

Note: The use in this By-Law of the term 'surgery' includes 'procedure' and 'surgical assistant' includes 'procedural assistant'.

253 The admitting Accredited Practitioner must maintain responsibility for the completion of intra-operative records at all times.

ADDITIONAL RULES, POLICIES AND PROCEDURES

254 Subject to By-Law 255, the General Manager of a Healthscope Hospital may develop and implement at the hospital any rules, policies or procedures the General Manager considers necessary or desirable to improve:

254.1 the quality of care provided to Patients; or

254.2 the safety of Patients, Accredited Practitioners, other Health Practitioners, staff and/or and all other people working at or engaged by or working at the hospital.

255 The General Manager must not make any rule, policy, procedure that is inconsistent with these By-Laws and should consult with the Medical Advisory Committee

PRIVACY AND CONFIDENTIALITY

General

256 Accredited Practitioners will manage all matters relating to the privacy and confidentiality of information (including personal, health, financial and identifying information of Patients, Healthscope employees and other Accredited Practitioners) in compliance with Healthscope or Healthscope Hospital policies, the *Privacy Act (Cth)*, the 'Australian Privacy Principles' established by the *Privacy Act (Cth)*, and other legislation and regulations relating to privacy and confidentiality (including State and Territory legislation relating to these matters that applies to the Healthscope Hospital).

257 Accredited Practitioners will not do anything to bring Healthscope or the Healthscope Hospital in breach of the obligations set out in By-Law 256.

258 Given the particular sensitivity of personal, health, financial and identifying information of Patients, Accredited Practitioners must ensure appropriate privacy, confidentiality, notification and consent measures are in place and working effectively for this information, including with respect to security (e.g. password management, use of devices), storage, handling, access to systems and data, sharing and communication of Patient information (including sharing and communication between Accredited Practitioners, practice staff, third parties, Healthscope and the Hospital).

259 Accredited Practitioners will have in place within their own practice adequate policies, systems and education regarding prevention of inappropriate access, protection of information, preservation of practice data and business continuity if inappropriate or unauthorised access occurs. Accredited Practitioners will accept personal accountability for compliance with all requirements set out in this By-Law.

260 Accredited Practitioners will comply with the various legislation governing the collection, handling, storage and disclosure of health information.

261 Accredited Practitioners will comply with common law duties of confidentiality.

262 If a breach of any of the obligations set out above occurs, including through inadvertence or a third-party cyber security breach, then the Accredited Practitioner must immediately notify the General Manager and actively assist to resolve the breach.

What an Accredited Practitioner must keep confidential

263 Subject to By-Law 264, an Accredited Practitioner must keep confidential the following information:

263.1 business information concerning Healthscope, every Healthscope Company and every Healthscope Hospital in respect of which he or she is accredited;

263.2 the particulars of these By-Laws;

263.3 information concerning the insurance arrangements of Healthscope or any Healthscope Company;

263.4 information concerning any Patient; and

263.5 any information gained by or conveyed to the Accredited Practitioner in the course of quality assurance activities of any Healthscope Hospital at which he or she is Accredited.

When confidentiality can be breached

264 The confidentiality requirements of By-Law 263 do not apply in the following circumstances:

264.1 where disclosure is required by law;

264.2 where disclosure is required by a regulatory body in connection with the Accredited Practitioner, a Healthscope Hospital, Healthscope or a Healthscope Company;

264.3 where the person benefiting from the confidentiality consents to the disclosure or waives the confidentiality; or

264.4 where disclosure is required in order to perform requirement of these By- Laws, including through seeking professional advice and in this instance the confidentiality requirements extend to the professional advisor.

What confidentiality means

265 The confidentiality requirements in By-Law 263 prohibit the Accredited Practitioner from using, copying, disclosing, reproducing or making public the confidential information, other than where an exception applies in By-Law 264.

Confidentiality obligations continue

266 The confidentiality requirements of these By-Laws continue with full force and effect after the Accredited Practitioner ceases to be accredited at any Healthscope Hospital.

FORMS AND PAPERWORK

General Manager may prescribe forms and paperwork

267 A General Manager may prescribe forms (written or electronic) and other administrative processes to be completed and performed by an Accredited Practitioner in the treatment of a Patient in connection with the Patient's admission to or treatment at a Healthscope Hospital.

268 An Accredited Practitioner must fully and accurately complete those forms and perform those processes and then deal with them in accordance with the General Manager's requirements and direction.