

Guidelines for the Appointment of Medical Practitioners as Panel Members, Deputy Directors and Consultants to Professional Services Review Matters

1. Introduction

1.1 Scope

- 1.1.1 These guidelines set out the requirements and processes for appointing:
- Panel members to the Professional Services Review Panel under section 84 of the Act;
 - Deputy Directors of the Professional Services Review under section 85 of the Act; and
 - Consultants under section 90 of the Act.
- 1.1.2 The guidelines set out the responsibilities of the PSR, and also include descriptions of the responsibilities of the AMA, Department of Health and Ageing, Medicare Australia and the Minister for Health and Ageing.
- 1.1.3 Under sections 84 and 85 of the Act the Minister must enter an arrangement with the AMA under which the AMA consults other specified organisations and associations before advising the Minister on the appointment of Panel Members and Deputy Directors. The Department of Health and Ageing will be responsible for ensuring this arrangement is in place, and may determine as a part of that process if these guidelines, should form part of that arrangement.
- 1.1.4 The Department of Health and Ageing is responsible for ensuring that a properly executed Instrument of Delegation is executed, if the Minister delegates his or her power under sections 84 and 85 of the Act.

1.2 Definitions

- 1.2.1 In these guidelines, unless the contrary intention appears:

AMA means the Australian Medical Association Limited (A.C.N. 008426793);

Panel Applicant means a medical practitioner who is seeking appointment to the Panel;

Committee means a Professional Services Review Committee set up under section 93 of the Act;

College means a medical college recognised by the Australian Medical Council;

Committee member means a member of a Committee, who by definition must be a current Panel member;

Department means the Department of Health and Ageing;

Deputy Director Applicant means a medical practitioner who is seeking appointment as a Deputy Director;

Deputy Director means a Deputy Director of Professional Services Review appointed under section 85 of the Act;

Director means the Director of Professional Services Review appointed under section 83 of the Act;

Minister means the Minister for Health and Ageing;

Minister's Delegate means a person delegated by the Minister to exercise the powers under section 84 or 85 of the Act;

Panel means the Professional Services Review Panel established under subsection 84(1) of the Act;

Panel member means a member of the Panel appointed under subsection 84(2) of the Act;

practitioner means a medical practitioner;

profession means the group of persons engaged in the vocation of medicine;

PSR means Professional Services Review;

Relevant Organisation means a College, medical association and/or society that will be consulted by the AMA pursuant to sections 84 and 85 of the Act;

the Act means the Health Insurance Act 1973.

2. Appointment of Panel Members

- 2.1.1 The object of the appointment process for the PSR Panel, established under section 84 of the Act, is to identify, and ensure the availability of appropriately skilled and qualified medical practitioners willing to take part in the peer review process established under Part VAA of the Act, and specifically to sit as Committee members appointed by the Director and make findings in relation to the potential inappropriate practice of one of their peers.
- 2.1.2 The Director of PSR is responsible for ensuring that suitably qualified practitioners, in sufficient numbers, and with sufficient skills and background, are put forth to the AMA and Minister for appointment to the Panel so that there will be sufficient Panel members for appointment to Committees when required.
- 2.1.3 To determine the number, skills and background that are sufficient for the purposes of 2.1.1., the Director will:
- a) review the average annual number of Committee matters held over the past three years and multiply this number by three;
 - b) seek information from Medicare Australia regarding its current compliance focus, and the number, specialty and background of practitioners currently being considered for referral to the PSR;
 - c) have regard to the resulting gender balance, cultural diversity, and geographic spread of the potential Panel;
 - d) have regard to the advice given to the Director following his or her inquiries of the AMA, the Colleges and Relevant Organisations pursuant to guideline 2.4.1.
- 2.1.4 The Director will use a biennial process as described in 2.4 to recruit Panel Applicants.
- 2.1.5 Where a Committee requires a Panel member with unique skills or experience in a specialty or special interest area, and there is no suitable practitioner on the Panel, the Director will use the process described in 2.7 and seek the agreement of the AMA and the Minister to make a 'just in time' appointment.
- 2.1.6 The AMA is responsible for providing the Minister, or the Minister's Delegate, with advice on the suitability of practitioners proposed by the Director to be appointed as Panel members. To fulfil this responsibility the AMA will consult with Relevant Organisations, and provide advice on the AMA's opinion to the Director within 8 weeks from the date of receipt of the request from the Director.

2.2 Qualifications of Panel members

- 2.2.1 In order to be appointed to the Panel, a practitioner must:
- a) be a currently registered practitioner within the meaning of the Act;
 - b) be currently practicing (at least on a part time basis);
 - c) have sufficient experience in, and knowledge of, current medical practice in his or her specialty as to be able to represent their body of peers, usually demonstrated by at least 15 years FTE practice experience;
 - d) be both willing and available to sit in Committee hearings and make proper enquiries into the appropriateness of practice of one of their peers;
 - e) be willing to participate in training that will enable them to participate in the legal orientated processes associated with sitting on a Committee;
 - f) be recognised as a suitable member of their profession and specialty to represent their peers on a Committee;
 - g) be willing to sign a declaration of interest document prior to their name being submitted to the Minister; and
 - h) be willing to enter a deed of confidentiality in relation to the information they will obtain as Panel and Committee members.

2.3 Appointment of Panel Members

- 2.3.1 The Director of PSR is responsible for initiating the process to appoint Panel members.
- 2.3.2 There will be three situations when the Director will put forth Panel Applicants for consideration of the AMA and the Minister. These will be:
- a) following a biennial recruitment process described in 2.4;
 - b) prior to the expiration of the term of appointment of a current Panel member or members seeking renewal, which will comprise the full consultation and submission process; and
 - c) to fill a 'just in time' appointment, described in 2.7.

2.4 The biennial recruitment process

- 2.4.1 To conduct a biennial recruitment process the Director will:
- a) seek the view of the AMA, the Colleges and Relevant Organisations to obtain a list of specialties and recognised special interest areas from which Panel members need to be obtained;
 - b) write to the AMA, the Colleges and Relevant Organisations to advertise to practitioners the recruitment process and invite practitioners to make an application directly to the PSR;
 - c) seek applications from practitioners by making an open call in appropriate public forums (including advertisements in relevant press and other such actions).

2.5 Appointment Process for New Panel Members

- 2.5.1 The Director will assess Panel Applicants according to the qualification requirements detailed in 2.2 above and will short list all Panel Applicants who satisfy those requirements.
- 2.5.2 The Director will write to the AMA, enclosing the applications of those Panel Applicants that the Director has shortlisted for consideration. The Director will also send to the AMA the name and applications of those practitioners that the Director has not short listed with a short reason why that applicant is not shortlisted.
- 2.5.3 The AMA will consult on the shortlisted Applicants with Relevant Organisations.
- 2.5.4 When the AMA has completed a consultation in relation to a Panel Applicant, the AMA will evaluate the Panel Applicant's suitability to perform the role of a Panel member, in light of the qualifications set out in 2.2, and any other matters that the AMA considers relevant.

2.5.5 The AMA will respond in writing to the Director on the acceptability of each Panel Applicant put forth within 8 weeks from the date of receipt of the request from the Director.

2.5.6 Upon receipt of the AMA response the Director will arrange for Panel Applicants approved by the AMA to be presented to the Minister, through the Department, for consideration. The Minister will be presented with the documented consultation between the AMA, Relevant Organisations, and PSR, as well as the Panel Applicant's resume.

2.6 The appointment process for existing Panel members

2.6.1 To conduct an appointment process for current Panel members the Director will monitor the appointment terms of current Panel members and consult with them directly about their desire to continue in the role, and seek a new application from a Panel member should he or she wish to be reappointed to the Panel.

2.6.2 The Director will consult with panel members at either of the following two points during their tenure:

- a) 6 months before expiry of their current term; or
- b) at the commencement of the Biennial recruitment round closest to the expiry of their current term.

2.6.3 Upon receipt of a new application the Director will write to the AMA, enclosing the application of the Panel Applicant, a summary analysis of the speciality, State, and gender, of the shortlisted applicants and details of each Panel Applicant's past experience serving on Committees.

2.6.4 The AMA will consult on the Panel Applicant with Relevant Organisations. When the AMA has completed a consultation in relation to a Panel Applicant the AMA will evaluate the Panel Applicant's suitability to perform the role of a Panel member in light of the qualifications set out in 2.2, and any other matters that the AMA considers relevant. The AMA will respond in writing to the Director on the acceptability of each Panel Applicant put forth within 8 weeks from the date of receipt of the request from the Director.

2.6.5 Upon receipt of AMA response the Director will arrange for those Panel Applicants to be presented to the Minister, through the Department, for the consideration of their re-appointment. The Minister will be presented with the documented consultation between the AMA, Relevant Organisations, and PSR, as well as the Panel Applicant's resume and details of that Panel member's past experience serving on Committees.

2.7 The 'just in time' appointment process for Panel Members

2.7.1 The 'just in time' appointment process is limited to the appointment of two or three suitably qualified Panel members with specified skills and/or experience for a current or upcoming PSR matter. The process whilst similar to the process for new Panel members described in 2.5 above will be limited to a small pool of applicants, with the timing of the potential appointment being a key priority.

2.7.2 To conduct a 'just in time' appointment the Director will:

- a) develop a description of the specific clinical experience or other knowledge required for the role, detailing the skills, knowledge and or experience that is required for the Committee matter;
- b) write to the AMA, Colleges or Relevant Organisations to advertise the vacancy; and
- c) seek applications from practitioners known to have the required skill, knowledge and/or experience.

2.7.3 Upon receipt of applications the Director will short-list Panel Applicants who satisfy the qualifications and experience required as set out in 2.2.

- 2.7.4 The Director will write to the AMA, enclosing the applications of those Panel Applicants that the Director has shortlisted as well as a summary analysis of the specialty, State, and gender, of the shortlisted applicants. The Director will also send to the AMA the name and applications of those practitioners that the Director has not short listed with a short reason why that applicant is not shortlisted.
- 2.7.5 The AMA will consult on the Panel Applicants with Relevant Organisations.
- 2.7.6 When the AMA has completed a consultation in relation to a Panel Applicant the AMA will evaluate the Panel Applicant's suitability to perform the role of a Panel member in light of the qualifications set out in 2.2, and any other matters that the AMA considers relevant.
- 2.7.7 The AMA will respond in writing to the Director on the acceptability of each Panel Applicant put forth within 8 weeks from the date of receipt of the request from the Director.
- 2.7.8 Upon receipt of the AMA's response, the Director will arrange for the Panel Applicants to be presented to the Minister, through the Department, for the consideration of their appointment. The Minister will be presented with the documented consultation between the AMA, Relevant Organisations, and PSR.

3. Appointment of Deputy Directors

- 3.1.1 The object of the appointment process for the Deputy Director role, established under section 85 of the Act, is to identify, and ensure the availability of appropriately skilled and qualified medical professionals willing to Chair the peer review Committee process established under Part VAA of the Act, and specifically to Chair Committees appointed by the Director and make findings in relation to the potential inappropriate practice of one of their peers.
- 3.1.2 The Director of PSR is responsible for ensuring that suitably qualified practitioners, in sufficient numbers, and with sufficient skills and background, are put forth to the AMA and Minister as to enable the appointment of Deputy Directors to Committees when required.
- 3.1.3 The Director will put forth Deputy Director Applicants in sufficient numbers to ensure that appointed Deputy Directors will be available to conduct Committees over the proceeding period, both in terms of numbers, skills, and availability.
- 3.1.4 To determine the number, skills and background that is sufficient for the purposes of 3.1.2, the Director will have regard to upcoming matters currently with Medicare Australia, as well as the matters on hand, and ensure that where possible each Deputy Director is not required to chair more than 5 matters at any one time. The Director will also have regard to the resulting gender balance, cultural diversity, and geographic spread of the potential pool of Deputy Directors.

3.2 Qualifications of Deputy Directors

- 3.2.1 In order to be appointed as a Deputy Director, a practitioner must:
 - a) be a currently registered practitioner within the meaning of the Act;
 - b) be currently practicing (at least on a part time basis);
 - c) be a current Panel member appointed by the Minister under Section 84 of the Act, or able to be so appointed prior to appointment as a Deputy Director;
 - d) have sufficient experience in, and knowledge of, current medical practice in his or her specialty as to be able to represent their body of peers, usually demonstrated by at least 15 years experience;
 - e) have experience in the PSR Committee process, usually demonstrated by having previously served as a Committee member on more than 2 Committees;
 - f) have demonstrated ability to manage the conduct of a PSR hearing;

- g) be both willing and available to be the chairperson of the Committee and make proper enquiries into the appropriateness of practice of one of their peers;
- h) have demonstrated ability to participate and control the legal orientated processes associated with chairing a Committee;
- i) be recognised as an appropriate member of their profession and sub-specialty to represent their peers on a Committee; and
- j) enter a deed of confidentiality in relation to the information they will obtain as a Deputy Director, Panel and Committee member.

3.3 Process to appoint Deputy Directors

3.3.1 The Director of the PSR is responsible for initiating the process to appoint Deputy Directors.

3.3.2 Deputy Directors will be selected from existing Panel members.

3.3.2 There will be two situations when The Director will put forth Deputy Director Applicants for consideration of the AMA and the Minister. These will be:

- a) following a biennial recruitment process, involving an open call for applications from all current Panel members; and
- b) prior to the expiration of the term of appointment of a current Deputy Director seeking renewal, which will comprise the full consultation and submission process, as envisaged in 3.6.

3.4 The biennial recruitment process for Deputy Directors

3.4.1 To conduct a biennial recruitment process the Director will seek applications by making an open call to all current Panel members (through the use of a mass mail-out or other presentation method that reaches all Panel members).

3.5 Nomination by the Director

3.5.1 The Director will assess and shortlist Deputy Director Applicants according to the qualification requirements detailed in 3.2 above.

3.5.2 The Director will write to the AMA, enclosing the applications of those Deputy Director Applicants that the Director submits for consideration as well as a summary analysis of the specialty, State, and gender, of the shortlisted applicants. The AMA will also be presented with the Deputy Director Applicant's resume and details of that applicant's past experience serving on Committees. The Director will also submit to the AMA the applications of those Deputy Director Applicants that the Director has not shortlisted, with a short explanation why those Deputy Director Applicants have not been shortlisted.

3.5.3 The AMA will consult on the Deputy Director Applicant with Relevant Organisations. When the AMA has completed a consultation in relation to a Deputy Director Applicant the AMA will evaluate the Deputy Director Applicant's suitability to perform the role of a Deputy Director, in light of the qualifications set out in 3.2, and any other matters that the AMA considers relevant.

3.5.4 The AMA will respond in writing to the Director on the acceptability of each Deputy Director Applicant put forth within 8 weeks from the date of receipt of the request from the Director.

3.5.5 Upon receipt of the AMA's response the Director will arrange for those Deputy Director Applicants to be presented to the Minister, through the Department, for the consideration of their appointment. The Minister will be presented with the documented consultation between the AMA, Relevant Organisations, and PSR, as well as the Deputy Director Applicant's resume and details of that panel member's past experience serving on Committees.

3.6 The appointment process for current Deputy Directors

- 3.6.1 To conduct an appointment process for current Deputy Directors the Director will monitor the appointment terms of current Deputy Directors and consult with them directly about their desire to continue in the role at least 6 months prior to the expiry of the current term.
- 3.6.2 The Director will request a new application should the Deputy Director seek a new appointment.
- 3.6.3 The Director will assess and shortlist Deputy Director Applicants according to the qualification requirements detailed in 3.2 above.
- 3.6.4 Upon receipt of a new application the Director will write to the AMA, enclosing the applications of the Deputy Directors that the Director has shortlisted. The AMA will be presented with each Deputy Director Applicant's resume and details of that applicant's past experience serving on Committees as well as a summary analysis of the specialty, State, and gender, of the shortlisted applicants. The Director will also submit to the AMA the applications of those Deputy Director Applicants that the Director has not shortlisted, with a short explanation why those Deputy Director Applicants have not been shortlisted.
- 3.6.5 The AMA will consult on the Deputy Director Applicant with Relevant Organisations.
- 3.6.6 When the AMA has completed a consultation in relation to a Deputy Director Applicant the AMA will evaluate the Deputy Director Applicant's suitability to perform the role of a Deputy Director, in light of the qualifications set out in 3.2, and any other matters that the AMA considers relevant.
- 3.6.7 The AMA will respond in writing to the Director on the acceptability of each Deputy Director Applicant put forth within 8 weeks from the date of receipt of the request from the Director.
- 3.6.8 Upon receipt of the AMA response the Director will arrange for the Deputy Director Applicants to be presented to the Minister, through the Department, for the consideration of their appointment. The Minister will be presented with the documented consultation between the AMA, Relevant Organisations, and PSR, as well as the Applicant's resume and details of that panel member's past experience serving on Committees.

4. Appointment of Consultants under Section 90

4.1 Guidelines for the engagement of consultants under section 90

- 4.1.1 Under section 90 of the Act the Director may engage a current Panel member, a consultant or a learned professional body to assist in making his or her decision on a review.
- 4.1.2 The Director will generally exercise their discretion to engage a consultant when:
 - a) the medical practice under review requires clinical or technical expertise that is outside of the Director's past experience and current knowledge (either as a practitioner, or as the Director);
 - b) the matter under review relates to a new or emerging medical practice, or alternative medical practice or technologies, or is otherwise a new or unique matter not previously reviewed under the PSR scheme;
 - c) the Director otherwise believes that a consultant will be able to assist in the decision making process during a review, and provide feedback to the Director on the conduct of the matter.
- 4.1.3 The Director of the PSR is responsible for ensuring that only suitably qualified individuals, with appropriate experience and knowledge are engaged as consultants for the purposes of assisting with the conducting of a review.
- 4.1.4 In selecting an appropriate consultant the Director will:
 - a) develop a role statement outlining the role requirements, and key deliverables that will be sought for through the consultancy contract;

- b) if necessary, seek input and advice from the AMA, Colleges or another organisation to source providers with the required skill, knowledge and/or experience; and
 - c) engage a provider or relevant individual, known to have the required skills, knowledge and/or experience to meet the requirements of the role and produce the key deliverables contained within the consultancy contract.
- 4.1.5 A consultant will be engaged by the Director on a contract basis under the requirements of *the Public Service Act 1999* and *the Financial Management and Accountability Act 1997*.
- 4.1.6 A consultant must enter a deed of confidentiality in relation to the information they will obtain in assisting the Director with a review.
- 4.1.7 A consultant must also make a declaration of any possible conflict of interest before appointment.

Signed on behalf of the
Australian Medical Association:

Signed on behalf of
Professional Services Review:

Position: *Secretary General*
Date: *16/3/11*

Position: *DPSR*
Date: *9/3/11*