



Regulation 28

Removal of role holders, committee, subcommittee and working group members representatives

28. Removal of role holders, committee, subcommittee and working group members representatives

Pursuant to article 7.3 of the Constitution:

7.3.1 The Council has the power from time to time to make, amend, or repeal all such regulations as it deems necessary or desirable for the proper conduct and management of the College, the regulation of its affairs and the furtherance of its objectives,

Noting that:

7.3.3 No regulation shall be inconsistent with, nor shall it affect the repeal or modification of, anything contained in the Constitution.

Purpose

This regulation describes the process to be followed when removal of a person from any College/Faculty role, committee, subcommittee or working group, or representative position is being considered.

Scope

1. This regulation applies to all persons who have been appointed or nominated as College/Faculty representatives, members and/or chairs of committees, subcommittees and working groups, or other roles within the College (role or position). For the removal of doubt, 'person' includes:

- (a) Fellow;*
 - (b) an Honorary Fellow;*
 - (c) a trainee;*
 - (d) an international medical graduate specialist;*
 - (e) a member of any committee, subcommittee or working group of the College (or the Faculties);*
 - (f) the holder of any position or role of the College (or the Faculties) including supervisors, assessors and examiners;*
 - (g) any person otherwise engaged by or for the College, or any Council, Faculty, committee, subcommittee, working party, section or grouping of or within the College appointed to represent the College.*
- 2. Role and position includes any role and position within the Faculties.*

3. This regulation does not apply to:

- (a) the election or appointment of Councillors of the Council or the executive of the College, or of Office Bearers (eg President-Elect) which is described in the Constitution; nor*
- (b) the employment of a person by the College, which follows normal employment practices.*

Pursuant to Constitution clauses 7.1.1, 7.3.2(i), 7.3.2(k), 7.5 and 17.1:

28.1 Guidelines for the removal from any role or position

- 28.1.1 The Council may, in its discretion, terminate the role or position of the person or remove a person from any role or position if:
- 28.1.1.1 the person (whether or not he or she is a member) has failed to comply with the standards expected of members under the Constitution and any Rules and Regulations of the College, or failed to support the objects of the College;
 - 28.1.1.2 the person has failed to perform the duties of the office or position of the person (whether evidenced by failure to attend meetings for a substantial period or otherwise);
 - 28.1.1.3 any rights, privileges or obligations conferred upon the person have been abused;
 - 28.1.1.4 the person has been charged and/or is convicted of any serious offence;
 - 28.1.1.5 the Council believes that a complaint or charge of a serious nature is or will be made or issued by any medical board, medical council, medical tribunal, registration authority or similar body against the person;
 - 28.1.1.6 the person has engaged in, or been a party to:
 - 28.1.1.6.1 unprofessional or unbecoming conduct;
 - 28.1.1.6.2 conduct which is inconsistent with a person's membership or the office or position held;
 - 28.1.1.6.3 conduct which is prejudicial, adverse or damaging to the interests of the College; or
 - 28.1.1.6.4 conduct which conflicts with the interests, objects or affairs of the College;
 - 28.1.1.7 the Council reasonably believes that the person poses a threat or risk to the community;
 - 28.1.1.8 any materials or evidence upon which any decision to appoint the person to the office or position are considered to be false or misleading;
 - 28.1.1.9 the person becomes bankrupt or makes any arrangement or compositions with his or her creditors generally;
 - 28.1.1.10 the person becomes prohibited from being a director of a company by reason of any order made under a law of a state, territory or the Commonwealth of Australia or New Zealand;
 - 28.1.1.11 the person is charged with or is found to be guilty of an offence under, or in breach of, any code, regulation or enactment which applies to the person as a practising anaesthetist, pain medicine physician or medical practitioner; or
 - 28.1.1.12 if the person, not being an Honorary Fellow, is required to be registered and ceases to be entered on any register of Medical Practitioners by a Medical Registration Authority recognised by the Council for that purpose, of a state or territory of Australia or New Zealand or has conditions imposed on such registration, other than:
 - 28.2.1.12.1 in circumstances of voluntary cessation of registration upon retirement from the practice of medicine; or
 - 28.2.1.12.2 with the prior approval of the Council.
- 28.1.2 The Board of the Faculty of Pain Medicine will follow the process outlined in regulation 28.1.1 in making a recommendation to Council about removal of a Faculty role or position from any person.

28.1.3 If the Council initiates the removal of a person from any role or position within the Faculty of Pain Medicine, the Council must first seek the recommendation of the Board of the Faculty of Pain Medicine under regulation 28.1.2.

28.2 Application for reinstatement of role or position

28.2.1 Any person whose role or position has been removed, may apply to be reappointed.

28.2.2 The applicant must at the time of making an application provide the Council with a written statement that:

28.2.2.1 includes a detailed account of the relevant conduct and practice of the applicant since the time of removal;

28.2.2.2 specifies any mitigating circumstances;

28.2.2.3 if relevant, specifies any punishment imposed by any Court or other regulatory body, together with its secondary effects, in connection with the offence, event or matter to which the removal related;

28.2.2.4 if relevant, is supported by evidence of remorse, contrition and acceptance of responsibility for the offence, event or matter to which the removal related; and

28.2.2.5 states why, in the applicant's opinion, the applicant should be reappointed; and

28.2.2.6 includes written evidence of a successful completion of a 'return to practice' program if there has been an absence from practice, according to the requirements of PS 50 Recommendations on Practice Re-entry for a Specialist Anaesthetist or similar for pain medicine physicians; and

28.2.2.7 includes such other information as the Council may require.

28.2.3 The Council may:

28.2.3.1 convene, or seek to convene, a meeting with any applicant. Any such meeting shall be held and conducted on such terms and conditions as the Council determines from time to time; and/or

28.2.3.2 notify an applicant of the grounds upon which their application has been rejected or accepted.

28.2.4 If the Council convenes a meeting pursuant to Regulation 28.2.3.1, the Council must:

28.2.4.1 give the applicant an opportunity to be heard; and

28.2.4.2 give due consideration to any written statement submitted by the applicant.

28.2.5 The Board of the Faculty of Pain Medicine will follow the process outlined in regulations 28.2.1, 28.2.2, 28.2.3 and 28.2.4 in making a recommendation to Council about reinstatement of any person to a Faculty role or position.

28.2.6 If the Council initiates the reinstatement of a person to any role or position within the Faculty of Pain Medicine, the Council must first seek the recommendation of the Board of the Faculty of Pain Medicine under regulation 28.2.5.

28.3 Warning letter

28.3.1 Without being obliged to do so, the Council may issue a warning letter to a person, containing such terms as the Council determines from time to time.

28.3.2 Without limitation, a warning letter may identify concerns the Council has about a person's conduct, or events or circumstances that have come to the attention of the Council which may give rise to a person's office or position being terminated in accordance with the Constitution or these regulations.

28.3.3 The issuing of a letter by the Council will not:

28.3.3.1 require the Council to take any further action or do anything; or

28.3.3.2 prejudice the rights of the Council or the College in respect of any action, step, claim or demand made in connection with the termination of the role or the position of a person.

28.4 Reconsideration, review and appeal

28.4.1 Any decision of the Council under these Regulations may be subject to appeal under the College's Reconsideration, Review and Appeal Regulations.

Definitions and interpretation

In these regulations:

- "Constitution" means the Constitution of the Australian and New Zealand College of Anaesthetists as amended from time to time; and
- "Regulations" means any regulation made in accordance with article 7.3; and
- "Council" means the ANZCA Council
- *Heading and boldings do not affect the interpretation.*

Unless otherwise specified, or the contrary intention appears in these regulations:

- *Where a word or phrase is defined in the Constitution the word or phrase has the same meaning throughout these regulations; and*
- *The singular includes the plural and vice versa; and*
- *A person includes an individual, a body corporate, a partnership, a firm, unincorporated association or institution and a government body; and*
- *These regulations shall come into operation on the date they are approved and adopted by the Council.*

November 2015 (in toto)