

Right of Private Practice - Allied Health Professionals in NSW Health Facilities

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Functional Sub group Personnel/Workforce - Industrial and Employee Relations

Summary Allied health professionals' rights and responsibilities regarding private practice with NSW Health facilities and the governance required.

Replaces Doc. No. Right of Private Practice - Allied Health Professionals [PD2005_317]

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared

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Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

ALLIED HEALTH PROFESSIONALS' RIGHT OF PRIVATE PRACTICE IN NSW HEALTH FACILITIES – MAY 2008

1. INTRODUCTION

1.1 Scope

This Policy Directive applies to the health professional classifications covered by the *NSW Health Service Health Professionals (State) Award*, the *Health Employees' Medical Radiation Scientists (State) Award* and to Psychologists and Pharmacists employed in the NSW public health system.

1.2 Purpose

The purpose of this policy directive is to set out the requirements and responsibilities for the allied health professionals' right of private practice scheme in NSW Health facilities.

This Policy Directive replaces *PD2005_317 Right of Private Practice for Allied Health Professionals*. The policy has been reviewed and reissued to clearly communicate to allied health professionals their rights and responsibilities to operate a private practice within a NSW Health facility and to clarify the governance required.

1.3 The right of private practice scheme

The right of private practice scheme provides a framework within which allied health professionals can be approved to operate a private allied health practice in public health facilities. The right of private practice scheme is separate to secondary employment arrangements and to the employment of sessional/contracted allied health services and does not entitle the allied health professional to employee benefits for the private practice component of their service.

NSW Health believes the right of private practice scheme will help to promote the recruitment and retention of allied health staff and increase access to the range of services provided by allied health professionals to the community, especially in rural NSW (but not necessarily excluding non-rural locales).

NSW Health wishes to encourage allied health professionals, where appropriate, to take up the right of private practice within a NSW health facility and increase the NSW community's access to allied health services, in particular where:

- NSW Health funded positions are 1.0 FTE or less; or
- a community need exists for enhanced allied health services; or
- there is no other or limited allied health services in a particular discipline or specialty within a discipline (eg paediatrics) in a particular locality; or
- it is difficult to recruit and retain allied health professionals in a particular locality.

1.4 Definitions

Allied Health Professional - means staff members employed in the health professional classifications covered by the *NSW Health Service Health Professionals (State) Award*, the *Health Employees' Medical Radiation Scientists (State) Award* and to Psychologists and Pharmacists employed in the NSW public health system.

Title: Allied Health Professionals' Right of Private Practice in NSW Health Facilities – May 2008

NSW Health Service - consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown. For the purposes of this policy directive, members of the Health Executive Service are excluded.

Must – indicates a mandatory action required by Departmental policy directive, law or industrial instrument.

Should – indicates an action that should be followed unless there are sound reasons for taking a different course of action.

1.5 Enquiries

Any enquiries regarding this policy should be directed to the Area Director or Advisor of Allied Health in the relevant health service. Only the most senior allied health professionals are to contact the Department.

2. FRAMEWORK FOR THE RIGHT OF PRIVATE PRACTICE SCHEME IN NSW HEALTH FACILITIES

2.1 Principles

- a) The right of private practice in a NSW Health facility is a privilege, granted on an individual basis to specified locations. It cannot be transferred or delegated and ceases when the individual is no longer employed by NSW Health.
- b) The right of private practice in a NSW Health facility is subject to review at any time and breaches of the undertakings given will result in the approval being withdrawn.
- c) Private practice in a NSW Health facility must not be approved or undertaken at the expense of services to public patients and should not provide unfair advantage over other private practices within the community.
- d) Allied health professionals will meet the fair and reasonable costs of undertaking private practice in a NSW Health facility.
- e) Private practice services in a NSW Health facility must be provided outside the allied health professional's usual working hours. (That is, the allied health professional's regular scheduled, rostered or contracted hours.)
- f) Private practice services in a NSW Health facility must only be available to persons who are not admitted patients of that facility.
- g) Private clients remain eligible for public services.
- h) Individuals who present as private clients of the allied health professional must be informed if the opportunity exists to be treated as a public health system patient.
- i) Private clients must be informed that they are not patients of the facility.

Title: Allied Health Professionals' Right of Private Practice in NSW Health Facilities – May 2008

- j) Group occasions of service can only be offered as a private or public service (not as a combination).
- k) Allied health professionals must not treat a client concurrently as a public patient and private client for the same condition.
- l) Private client records remain the property and responsibility of the private practice allied health professional.
- m) The private practice allied health professional must not access hospital records for the same client without the client's consent.
- n) The allied health professional may accept referrals of both public and private patients during both public and private hours. However, there must be no conflict with the allied health professional's proper and efficient performance of their public clinical duties; and, they must not use their official position to solicit clients for private practice in a NSW Health facility, nor use it to imply any special competence for private client recruitment purposes.
- o) Additional equipment, services or support staff required to carry out private practice in a NSW Health facility must be provided by the allied health professional at their own expense.

2.2 The Allied Health Professional's responsibilities

The allied health professional must:

- a) give undertakings in writing that they will abide by the terms and conditions applicable to the right of private practice in a NSW Health facility;
- b) sign a facility charge agreement to cover the fair and reasonable costs of undertaking private practice in a NSW Health facility;
- c) provide evidence, on request, of current professional indemnity insurance and public liability ¹ for their private work in a NSW Health facility, and as determined from time to time by NSW Health. Evidence that the relevant Registration Board has been provided this information may also be required;
- d) obtain provider numbers from relevant organisations (eg Health Insurance Commission, Department of Veteran's Affairs, private health funds);
- e) obtain an Australian Business Number and comply with all Australian taxation law;
- f) provide their own business stationery (letterheads, invoices etc);
- g) ensure the security and storage of their private practice files and records;

¹ At the time of publishing this policy the figure was \$10 million

Title: Allied Health Professionals' Right of Private Practice in NSW Health Facilities – May 2008

- h) continue to comply with applicable NSW Health policies (eg. Code of Conduct, OHS, policies relating to client privacy and confidentiality and policies relating to client rights and responsibilities);
- i) comply with any reasonable direction by the Area Health Service in relation to the resolution of complaints or disputes about private practice services; and
- j) not use their official position to solicit, receive or defer clients to private practice, nor imply any special competence for private client recruitment purposes.

2.3 The Area Health Service's responsibilities

The Area Health Service is responsible for:

- developing and implementing the governance mechanisms required for managing and monitoring the scheme (a sample Application Form is at Appendix 1); and
- determining the provision of, and fair and reasonable fees payable for, access to facilities and services such as:
 - treatment facilities
 - office facilities and business equipment (eg. phone, fax, printers, photocopying, internet connection, storage)
 - diagnostic services per privacy legislation
 - client equipment loan services
 - off-the-shelf consumables
 - testing tools and forms relevant to the discipline
 - secretarial services
 - cleaning and asset management.

3. GOVERNANCE

As the employer, Area Health Services must develop appropriate governance mechanisms for the right of private practice scheme, including processes to:

- a) assess and approve applications to participate in the scheme to ensure private practice in a NSW Health facility is not undertaken at the expense of services to public patients; does not provide unfair advantage over other private practices within the community; and in consideration of secondary employment policy;
- b) ensure that in localities where a local practitioner is in private practice that the practitioner is consulted on the proposal to establish a private practice within the NSW Health facility. (If the local private practitioner expresses concerns about the proposal then mediation between the parties, including operational management and senior allied health staff, is to be arranged.);
- c) ensure the allied health professional makes all required written undertakings and agreements;
- d) ensure the allied health professional has met all professional registration and indemnity insurance requirements to conduct private practice;

Title: Allied Health Professionals' Right of Private Practice in NSW Health Facilities – May 2008

- e) manage and monitor the operation of the scheme to ensure compliance;
- f) manage and monitor the operation of the scheme to ensure that there is no conflict of interest for allied health professionals providing public and private allied health services and that there is a continuing need;
- g) determine access to local health service medical records in accord with privacy legislation and in consultation with Health Information Management;
- h) inform patients about the scheme and its relationship to public services;
- i) develop appropriate, fair and reasonable cost recovery fee structures and agreements for the use of facilities, equipment and materials;
- j) ensure the accurate documentation of public and private hours;
- k) manage and monitor the use of facilities, equipment and materials;
- l) record the use of and payment for facilities, equipment and materials;
- m) ensure the allied health professional is aware of their need to engage appropriate accounting and taxation advice; and
- n) manage grievances and complaints in accordance with:
 - PD2005_584 *Grievance Resolution (Workplace): for the Department of Health and Public Health Organisations*
 - PD2006_007 *Complaint or Concern about a Clinician – Principles for Action*
 - GL2006_002 *Complaint or Concern about a Clinician – Management Guidelines.*

Professor Debora Picone AM
Director-General

Appendix 1

Example Only

Application Form Rights of Private Practice For Allied Health Professionals

This can be completed in partnership with Operational Manager and appropriate Senior Allied Health Professional

Name:

Discipline:

Facility/s:

Senior Allied Health Staff and or discipline senior clinicians

Business Case:

1. Allied health Discipline and/or speciality area
2. FTE Positions (filled and vacant)
3. Evidence of local need for private practice
4. Identified Core Priorities for Publicly funded service (in line with Area and local Health Service Plan)
5. Proposed Scope of Private Practice:
 - Service to be offered
 - Hours of operation
 - Referral System
6. Evidence of consultation with local referring practitioners/organisations/community
7. Consultation with other Private Practitioner of same discipline (if applicable)

Applicant:

Signature:

Name:

Date:

Support for Rights of Private Practice

Senior Facility Management:

Signature:

Name

Date:

Senior Allied Health Professional:

Signature:

Name

Date: