

HEALTH ADMINISTRATION ACT (1982)

TERMS OF REFERENCE

NSW SPECIAL COMMITTEE INVESTIGATING DEATHS UNDER ANAESTHESIA

I, ELIZABETH KOFF, Secretary, Ministry of Health, acting as the authorised delegate of the Minister of Health, pursuant to sections 20(5) and 23 of the Health Administration Act 1982 (the Act) and section 43 of the Interpretation Act 1987, do hereby repeal the existing terms of reference for the NSW Special Committee Investigating Deaths Under Anaesthesia (SCIDUA), and authorise SCIDUA to conduct investigations and research in accordance with section 23 of the Act as follows:

1. Governance and statutory privilege

The NSW Special Committee Investigating Deaths Under Anaesthesia is governed by its Ministerial Committee and administratively supported and managed by the Special Committees Program at the Clinical Excellence Commission.

SCIDUA is constituted under section 20 of the Act and is afforded privilege under section 23 of the Act for the purpose of conducting research or investigations into morbidity and mortality occurring within NSW. Material created for and by SCIDUA is privileged and cannot be disclosed or released, otherwise than in accordance with these terms of reference, without the approval of the Minister for Health or the Minister's authorised delegate.

2. Purpose

The NSW Special Committee Investigating Deaths Under Anaesthesia (SCIDUA). Its purpose is to subject all deaths which occur while under, as a result of, or within 24 hours after the administration of anaesthesia or sedation for procedures of a medical, surgical, dental or investigative nature to peer review so as to identify any area of clinical management where alternative methods could have led to a more favourable result.

3. Functions

SCIDUA will:

- register, investigate and classify deaths occurring during or within 24 hours of a procedure performed under anaesthesia or sedation.
- determine whether further information is required to complete the above investigation, and if so to request such information under guarantee of confidentiality from the attending practitioner(s).
- examine information acquired and identify any issues of management which were instrumental in the patient's death.
- feedback the Committee's findings confidentially to the medical practitioners involved in the patient's care.
- report annually to the Minister for Health, drawing attention to any matters which require action to improve the safety of anaesthesia and sedation in New South Wales.
- acquaint the medical profession in general and anaesthetists in particular with any matters to which special attention needs to be paid to ensure the safety of anaesthesia and sedation.
- submit for publication in appropriate peer-reviewed journals the results of the Committee's investigations in such a way as to preserve undertakings of confidentiality given to respondents.
- conduct relevant research projects using the data and deidentified information obtained as part of the audit.
- make available the expertise of its members to the Clinical Excellence Commission in pursuit of systemic improvements to patient care in the fields of anaesthesia and sedation.
- share the audit findings of a notified death with other committees that have special privilege under section 23 of the *Health Administration Act 1982*, if the same death has been notified to them.

- share information from the audit findings with the Collaborating Hospitals' Audit of Surgical Mortality (CHASM) for the following: Notification data on deaths that occur within 30 days after an operation or procedure, or during the last hospital admission under the care of a surgeon, irrespective of whether an operation has been performed or not.
- regularly review the Committee's functions and activities including maintenance of security and confidentiality of case data.

4. Communication and reports

SCIDUA will provide de-identified feedback or reports on the outcome of its reviews to inform on best practice, system improvement and patient safety to:

- individual medical practitioners involved in the care of the deceased patient;
- the Secretary, NSW Health, as an annual publication for educational purposes;
- hospitals and health facilities on their notification of death reporting; and
- other committees with special privilege under section 23 of the Act.

SCIDUA may provide reports using de-identified aggregated data to:

- public health organisations and private health facilities to assist in improving effective and timely care;
- individual medical practitioners requesting data to support their low/negligible risk research projects, or for journal publications and presentations;
- research teams conducting research projects with ethics approval from a NSW Health Human Research Ethics Committee;
- the Australian and New Zealand Audit College of Anaesthetists (ANZCA) for inclusion in their national publications on anaesthesia safety;
- appropriate agencies, organisations or colleges to support patient safety and quality improvement initiatives.

5. Communication with Key Stakeholders

Members may visit hospitals and local health districts on an ad hoc basis to promote the program and encourage participation from medical practitioners. They may give presentations at conferences, forums and educational sessions to promote and educate the anaesthetic community on the purpose of SCIDUA.

SCIDUA produces an annual publication using deidentified information, approved for disclosure by the Secretary, NSW Health, to promote a greater awareness of relevant issues and challenges for anaesthetists in New South Wales.

Individual feedback is provided by the Chairperson to each medical practitioner participating in the SCIDUA Program following case assessment by the Committee. This is an educational process to assist medical practitioners to undergo a period of reflection by considering the feedback provided.

6. Sub-committees

SCIDUA may establish sub-committees to assist with the functions of SCIDUA and delegate such functions of SCIDUA, consistent with these Terms of Reference, to those sub-committees as SCIDUA considers appropriate.

7. Research

Deidentified information obtained from the submitted form may be made available to researchers to conduct approved research projects. SCIDUA may place specific conditions on the data provided to any agency or person.

This information will also be available to be analysed and scrutinised by employees of the Clinical Excellence Commission to ensure data integrity and to provide accurate context for the purposes of each research project. NSW Health Cybersecurity protocols must be adhered to by all researchers.

Research papers and publications using aggregated data will be published in a de-identified format, approved by the Chief Executive of the Clinical Excellence Commission, to ensure that the perspective of the research outcomes is appropriate, and able to withstand public scrutiny.

Proposed research projects will require the approval of a NSW Health Human Research Ethics Committee (HREC) before commencing and will need to be endorsed by the SCIDUA Chairperson. NSW Health remains the owner of the data provided for research purposes.

8. Membership

SCIDUA should reflect the interests of the anaesthesia community relative to the work of the Committee and is to consist of no more than 12 members, including:

- one Clinical Chairperson
- up to two Deputy Co-Chairs, including one representative of the Australian and New Zealand College of Anaesthetists (ANZCA)
- one or more registered NSW medical practitioners with expertise in anaesthesia and/or sedation.

Members are appointed by the Secretary, NSW Health, under delegation by the Minister, for a period not exceeding five (5) years, and any such appointments may be terminated by the Secretary at any time. Members may be eligible for reappointment for further terms, where the total period of appointment as a member does not exceed a maximum of ten (10) years.

In addition, the Committee may have the following ex-officio membership: Chief Executive, Clinical Excellence Commission (CEC) or proxy; Manager, Special Committees, CEC; Chairperson or member of the Collaborating Hospitals' Audit of Surgical Mortality (CHASM); a representative of the Australian and New Zealand College of Anaesthetists (ANZCA) as a Deputy Co-Chair.

9. Clinical Chairperson and Deputy Co-Chair

Pursuant to Section 20 of the Act, a member of the Committee who is a registered medical practitioner can be appointed as the Clinical Chairperson or Deputy Co-Chair by the Secretary, NSW Health, under delegation by the Minister, for a period not exceeding five (5) years, any such appointments do not include the term of office as a member of the Committee in the maximum term of office as Chairperson or Deputy Co-Chair.

At the end of the Chairperson's first term, if eligible, the holder of office may be considered for reappointment by the Secretary, NSW Health, for a further term, where the total period of appointment does not exceed a maximum of ten (10) years.

The Chairperson may endorse a Deputy Co-Chair for reappointment by the Secretary, NSW Health, for further terms, with the holder of office not exceeding a maximum period of appointment of ten (10) years.

The Secretary, NSW Health, may appoint, a member to act in the office of Chairperson of the Committee during the illness or absence of the Chairperson, and the member, while so acting, will assume all the functions of the office, and is taken to be the holder of office.

10. Conduct

Each member of the Committee must agree to comply with the NSW Health Code of Conduct and is to sign a confidentiality agreement relative to the business of the Committee.

A member of the Committee is taken to have vacated their position if:

- (a) The Minister revokes a member's appointment; or
- (b) A member resigns in writing to the Minister; or
- (c) A member ceases clinical practice in New South Wales; or
- (d) A member is not considered eligible for reappointment upon the completion of their term of appointment; or
- (e) A member becomes mentally incapacitated, or dies; or
- (f) A member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) A member is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

11. Remuneration

Remuneration (including travelling and subsistence allowances) for the Chairperson, Deputy Co-Chairs and members of SCIDUA is set by the Minister in accordance with the *Remuneration and Classification framework established for NSW Government Boards and Committees*. Deputy Co-Chairs are entitled to remuneration equivalent to that of a Committee member, plus 15%.

The SCIDUA Committee is classified as a C2-i entity with rates effective from 1 July 2014, set by the Public Service Commission.

12. Meetings

The SCIDUA Committee will meet at least four (4) times each calendar year. Meetings will be held out of hours, where applicable, with members attending outside of their employed clinical roles.

13. Secretariat

Administrative support for the SCIDUA Committee will be provided by the Clinical Excellence Commission, with Medical Secretariat functions conducted by members of SCIDUA.

14. Quorum

The SCIDUA Committee requires the attendance of one quarter (25%) of its membership (to the nearest whole number) for a quorum.

Members not providing an apology to the Chairperson to support their inability to attend a meeting, may be at risk of forfeiting their membership if this occurs on more than three consecutive occasions.

Dated this  day of  2021


Elizabeth Koff