MercyAscot

GREENLANE ✦ EPSOM ✦ TAKAPUNA

Specialist Bylaws 2021

Index

Please note: All enquiries to the Chief Executive Officer

1. INTRODUCTION

1.1 These Specialist Bylaws set out the key things that medical specialists should be aware of when they are both considering applying for clinical privileges at a MercyAscot facility (including Mercy Hospital, Ascot Hospital and Mercy Endoscopy) and once they have been granted clinical privileges. The Bylaws sets out the rights and obligations of all Specialists at MercyAscot and also cover requirements that apply to the granting and maintaining of clinical privileges and the processes that MercyAscot follows when considering applications (and re-applications) for clinical privileges.

1.2 The Bylaws are designed to be read alongside MercyAscot's Specialists Responsibilities document which can be obtained from https://www.mercyascot.co.nz/Specialists-secretaries/Credentialing-Information-for-Specialists and the definitions in Appendix 3.

1.3 Please take time to become familiar with the contents of these Bylaws before applying for clinical privileges and then retain this document for future reference.

2. MERCYASCOT VISION AND VALUES

2.1 All Specialists are required to work collaboratively together with MercyAscot employees to enable the organisation to be New Zealand's leading provider of health services, always delivered with excellence and value whilst embracing the values of Adaptability, Accountability, Customer Service and Communication.

2.2 Each Specialist has a responsibility to contribute to the function of MercyAscot and its facilities, with peer support, teamwork, and collegiality with their associated health professionals. The day to day roles and responsibilities of Specialists and the ways in which MercyAscot expects Specialists to establish and maintain a positive and collaborative relationship with each other and to collectively deliver quality care to patients, are set out in Specialists Responsibilities.

3. GENERAL RESPONSIBILITIES

3.1 Amongst other things, these Bylaws set out the rights and obligations of Specialists. Such obligations include:

a. ensuring that they are sufficiently competent, skilled and experienced to provide the services within their Approved Area of Practice;

b. complying with these Bylaws and all applicable MercyAscot policies and procedures (including Specialist Responsibilities);

c. complying with the MercyAscot Code of Ethics;

d. participating in and contributing to audit / mortality and morbidity reviews; and

e. meeting responsibilities as *a person conducting the business or undertaking* (PCBU) under the Health and Safety at Work Act 2015; including consulting, cooperating and coordinating on safety matters with MercyAscot.

3.2 Clause 3.1 will not limit any other provision of these Bylaws.

4. MERCYASCOT CLINICAL GOVERNANCE

4.1 MercyAscot has a range of clinical, management and other committees, including the following:

- MercyAscot Board of Directors
- Credentialing Committee
- Clinical Advisory Board
- Anaesthetic Advisory Group
- Project-related groups (e.g. IT Projects, Redevelopment Projects etc.)

4.2 MercyAscot's committees are set out in the diagram in Appendix 2.

4.3 From time to time Specialists may be invited to take specific roles and serve on specific MercyAscot committees. Such Specialists hold specific responsibilities and accountability involving clinical management, monitoring of patient care and services.

4.4 From time to time, MercyAscot also holds specialty group meetings. Specialists and MercyAscot senior managers are invited to attend. The agendas consider issues relating to patient care and outcomes, new developments/improvements/procedures, policy review, and audit. Specialists are encouraged to contribute and attend these meetings. MercyAscot has specific internal committees to review standards, product evaluation and quality and risk management.

Credentialing responsibilities and Credentialing Committee

4.5 The overall responsibility for MercyAscot's credentialing processes and decisions sits with the Board, including ensuring that:

a. credentialing policies and procedures are followed;

b. credentialing policies and procedures are documented; and

c. due process is followed.

4.6 MercyAscot's initial and re-credentialing processes reflect MercyAscot's commitment to ensuring that its Specialists are excellent practitioners and personally suited to practising as part of the wider MercyAscot team. The Board has delegated the responsibility for assessing initial and re-credentialing applications to the Credentialing Committee (with the responsibility for preliminary assessments sitting with the Director of Credentialing). The Credentialing Committee makes non-binding recommendations about whether to offer clinical privileges to the applicants to the CEO, who then makes non-binding recommendations to the Board.

4.7 The Credentialing Committee meets four times a year. Three of the members are peer Specialists, each of whom represent one of the three core disciplines at MercyAscot-medicine, surgery and anaesthesia. The other members are the chairperson (a medical practitioner who has been part of the admitting team for at least five years and is appointed by the CEO) and a member of the executive team nominated by the CEO. The Specialist members and chairperson serve for a term of three years.

4.8 Other members of the executive team (except the CEO) have a standing invitation to attend committee meetings, MercyAscot staff and external guests may be invited from time to time and the Committee has the power to co-opt additional where required. This power would allow the co-opting of external medical practitioners and a consumer representative. The committee's terms of reference does not expressly empower the Committee to remunerate external participants.

4.9 The Credentialing Committee operates under a written terms of reference and reports through the Director of Credentialing to the CEO and through the Clinical Advisory Board to the Board. The relationship of the Credentialing Committee to other clinical and management committees and groups within MercyAscot is set out in the diagram in Appendix 2.

Conflicts of interest

4.10 A conflict of interest is where a person's personal or professional interests conflict with the responsibilities of that person's position or role. It means that the person's independence, objectivity or impartiality can be called into question. Interests can be direct, indirect, pecuniary or relational and arise from ownership or relationships with other healthcare or commercial businesses, membership of organisations and groups of influence or personal relationships e.g. with spouses, doctors, nurses, patients.

4.11 Specialists must adhere to MercyAscot's processes for managing conflicts of interest, which are as follows:

a. Any person who has an actual or potential conflict of interest in relation to a matter to be decided by them, whether solely or jointly with another person, in the course of their practice or work at MercyAscot, must (as soon as possible after the relevant facts have come to the person's knowledge) disclose the nature and details of the interest to the person or body that manages them (**Manager**).

b. Any member of any clinical governance committee who has an actual or potential conflict of interest in a matter to be decided or discussed by that committee, that member must (as soon as possible after the relevant facts have come to the member's knowledge) disclose the nature and details of the interest to the chair of that committee.

4.12 The Manager or chair of the relevant committee (as applicable) will decide how the conflict of interest will be managed, for example, whether the person with the conflict of interest:

a. participates fully in the relevant discussions and decision;

b. participates in the relevant discussions but not the decision;

c. is not permitted to be present for the discussions or the decisions; or

d. is not permitted to hold the relevant office for a specified period of time.

4.13 The person with the actual or potential conflict of interest must comply with any such determination.

5. CREDENTIALING

5.1 The initial credentialing process is a formal process used to verify the qualifications, experience, professional standing and other relevant professional attributes of medical specialists, for the purpose of forming a view about their competence, performance and professional suitability to provide safe, high quality healthcare services at MercyAscot.

5.2 The initial credentialing process is a pre-cursor to deciding whether to offer an applicant clinical privileges and if clinical privileges are to be offered, what type of clinical privileges and in what Approved Area of Practice. MercyAscot requires all medical specialists who provide patient care at its facilities to be credentialed and hold clinical privileges in an Approved Area of Practice. Credentialing is an essential component of the MercyAscot Quality Programme.

5.3 Other credentialing processes include:

a. annual confirmation that each Specialist is legally entitled to practise and various related items;

b. the re-credentialing process (which is undertaken when a Specialist wishes to continue to practise at MercyAscot after their General Privileges have expired); and

c. ongoing monitoring of each Specialist's competence and performance.

Types of clinical privileges

5.4 The types of clinical privileges available from MercyAscot are *General, Temporary, Visiting Specialist, Fellow and Medical Student*. General Privileges allow Specialists to admit, attend, investigate and operate on or treat patients within their Approved Area of Practice at MercyAscot facilities, subject to the provisions of these Bylaws, the Specialists Responsibilities and all applicable MercyAscot policies and procedures.

5.5 The eligibility requirements and process for applying for General Privileges are set out in clause 6. The eligibility requirements and process for applying for the other types of clinical privileges are set out in clause 7.

Approved area of practice

5.6 A Specialist's Approved Area of Practice is the extent of the Specialist's permitted clinical practice at MercyAscot and is based on Specialist's credentials, competence, performance and professional suitability. Specialists must not practise outside their Approved Area of Practice, except where permitted by these Bylaws.

5.7 A Specialist's Approved Scope of Practice may include Advanced Procedures. The current list of these can be obtained from https://www.mercyascot.co.nz/Specialists-secretaries/Credentialing-Information-for-Specialists . These lists will be updated from time to time (for example, to take account of new technologies) by the Credentialing Committee.

5.8 An Approved Area of Practice is agreed between each specialist who has been offered clinical privileges and MercyAscot, once the medical practitioner has successfully completed the initial credentialing process, and may or may not be the same as the Specialist's Medical Council of New Zealand scope of practice and/or their scope of practice at another facility.

5.9 Expansions to a Specialist's Approved Area of Practice (including the addition of Advanced Procedures) are at the sole discretion of MercyAscot. Specialists who wish to expand their Approved Area of Practice must make an application to the Director of Credentialing. The Director of Credentialing will consider the application and make a non-binding recommendation to the Credentialing Committee about whether the application should be accepted. The Credentialing Committee will make the final decision and MercyAscot will advise the Specialist of the outcome. Additions to a Specialist's Approved Area of Practice must be agreed in writing by the Specialist and MercyAscot.

5.10 A Specialist's Approved Area of Practice may be reviewed and modified by MercyAscot from time to time, for example, where the Specialist requests a review or there are 'non-routine' events such as the introduction of a new treatment or new technology that requires specific competence or significant contractual changes that may affect the Specialist's clinical responsibilities.

6. GENERAL PRIVILEGES

Eligibility

6.1 Medical practitioners are eligible to apply to MercyAscot for General Privileges at MercyAscot if they:

a. are currently registered with the Medical Council of New Zealand within an appropriate vocational scope of practice;

b. hold a current Annual Practising Certificate issued by the Medical Council of New Zealand (**APC**);

c. are a member of a recognised specialty college;

d. have experience practicing at Consultant level;

e. are participating in a recognised specialist college CME / CPD programme;

f. have current indemnity insurance that is satisfactory to MercyAscot; and

g. are prepared to complete all required safety checks and health and safety checks and documentation

Application process - submission of application

6.2 The intending applicant must submit a Credentialing Application Form. This form can be requested by emailing Credentialing@comms.mercyascot.co.nz. By submitting a Credentialing Application Form, the applicant agrees that the application will be considered in accordance with the processes set out these Bylaws, and that, notwithstanding anything else in these Bylaws, the receipt and consideration of applications, and the offering and/or granting of clinical privileges, is at the sole discretion of MercyAscot. MercyAscot has no obligation to receive and consider any application for clinical privileges. Incomplete applications will not be considered.

6.3 The applicant also acknowledges that any information that is provided by third parties as part of any credentialing process may be provided in confidence as evaluative material and might not be disclosed to the applicant.

Consideration by Director of Credentialing

6.4 Where MercyAscot decides to receive and consider an application, the application and all related documents will be forwarded in confidence to the Director of Credentialing. Confidential references will then be requested from the nominated referees and referees' responses will be annexed to the application.

6.5 The Director of Credentialing and other relevant MercyAscot managers will then consider the application and form a view about applicant's competence, current fitness, performance and professional and general suitability to provide safe, high-quality healthcare services within the specific environment at MercyAscot. As part of considering the application, Director of Credentialing and other relevant managers will:

a. verify the applicant's qualifications and education specific to the clinical and other responsibilities that the role at MercyAscot will require, including checking the currency of the applicant's APC on the Medical Council of New Zealand online register;

b. assess the professional standing and other relevant professional attributes of the applicant such as their aptitude in the application of knowledge, skills in decision making, judgement, performance, interpersonal relationships and other attributes necessary for the clinical privileges that the applicant has applied for (bearing in mind that professional competence is multi-faceted);

c. assess whether the applicant has a demonstrated ability to provide health services at a high level of safety and quality;

d. assess whether the applicant has the current fitness to carry out the clinical privileges sought. An applicant will be considered to not have current fitness if he or she suffers from a physical or mental impairment, disability, condition or disorder which detrimentally affects or is likely to detrimentally affect the applicant's physical or mental capacity to safely practice medicine and carry out the clinical privileges sought or granted. A substance abuse problem is considered to be a physical or mental disorder;

e. verify the applicant's experience and fitness to practise. This can include the applicant's summary of practice since registration and activity log, data on clinical audits and evidence of teaching, training and research; and

f. consider the applicant's history of and current status with respect to professional registration, disciplinary actions, indemnity insurance, and safety checks, as well as organisational capability and organisational need.

Further information and interviews

6.6 The Director of Credentialing may seek further information from the applicant, or any other source, if the Director of Credentialing considers that such further information is desirable for the proper consideration of the application.

6.7 From time to time, and at its sole discretion, MercyAscot may ask applicants to attend an interview as part of the application process. Where an applicant has been asked to attend an interview and fails to respond to that request within a reasonable time or to be present at the agreed time and venue, MercyAscot may, at its sole discretion, decline the applicant's application.

6.8 After considering the application and any further information and after the interview (if any), the Director of Credentialing will:

a. provide the Credentialing Committee with the application forms, supporting documentation, referees' reports, and any other information the Director of Credentialing considers appropriate for the proper consideration of the application;

b. make a non-binding recommendation to the Credentialing Committee about whether to offer general privileges to the applicant and if so, in what Approved Area of Practice (including whether the applicant is permitted to undertake any Advanced Procedures); and

c. subject to clause 7.1, decide whether to offer the applicant temporary clinical privileges. An applicant who is granted temporary clinical privileges will not necessarily be granted General Privileges.

Consideration by Credentialing Committee

6.9 The Credentialing Committee will consider the information, documents and recommendation given by the Director of Credentialing and provide a non-binding recommendation in writing to the Chief Executive Officer about whether to offer General Privileges to the applicant and if so, in what Approved Area of Practice.

6.10 The Credentialing Committee may seek further information from the applicant, or any other source, if the committee considers that such further information is desirable for the proper consideration of the application.

Final decision

6.11 The Chief Executive Officer will make a non-binding recommendation to the Board about:

a. whether MercyAscot offers General Privileges to any applicant, and

b. if privileges are to be offered, the duration of those privileges, the Approved Area of Practice (including whether the applicant is permitted to undertake any Advanced Procedures) and any restrictions and conditions that will apply.

6.12 The Board will then make the final decision about the matters set out in clause 6.11. The Chief Executive and the Board have the same rights to seek further information as the Director of Credentialing and Credentialing Committee do.

6.13 The outcome of the application will be advised in writing. MercyAscot is not required to disclose the reasons for the final decision or any of the recommendations made during the process.

Approval

6.14 If MercyAscot wishes to offer the applicant General Privileges, then it will provide the applicant with a Practice Agreement that will include the duration of the privileges, a proposed Approved Area of Practice and any conditions or restrictions that apply.

6.15 If the applicant wishes to accept the offer of General Privileges, they will return the signed Practice Agreement to MercyAscot and at that point they are a MercyAscot Specialist.

6.16 Each Specialist's details will be entered into the MercyAscot register of Specialists, and posted on the MercyAscot website.

6.17 MercyAscot notifies the Medical Council of New Zealand of all Specialists granted privileges at MercyAscot.

Declined

6.18 If declined, the applicant will not have any claim at law or in equity under any circumstance against MercyAscot, including the Board, the Credentialing Committee or any staff of MercyAscot or associated entities. There is no right of appeal and the applicant may not re-apply for a period of two years (commencing on the date that the applicant is advised in writing of their application being declined).

Orientation

6.19 MercyAscot will ensure that all Specialists with General or Temporary Privileges receive orientation arranged by the senior managers with appropriate customer support, medical, nursing, pharmacy, ward, and theatre teams.

7. OTHER TYPES OF PRIVILEGES

Temporary privileges

7.1 Temporary privileges may be offered from time to time at the sole discretion of the Chief Executive Officer or the Director of Credentialing to applicants who have submitted a completed Credentialing Application Form.

7.2 Subject to clause 7.4, temporary privileges will be offered for a period starting on a date nominated by Chief Executive Officer or the Director of Credentialing until the application is considered at the next meeting of the Board, provided that temporary privileges will last no longer than three months.

7.3 Full application criteria apply to the granting for temporary credentialing.

7.4 Temporary privileges may be revoked at any time by the Chief Executive Officer or the Director of Credentialing and will automatically terminate upon MercyAscot advising of its decision to approve or decline the relevant application for General Privileges. MercyAscot is not required to disclose the reasons for not offering temporary privileges or for revoking temporary privileges.

Visiting Specialists

7.5 From time to time a MercyAscot Specialist may wish to bring a medical specialist on site to assist or demonstrate techniques/procedures. In order to do so, a Visiting Specialist Application Form is to be completed (including details about the visiting specialist and the planned procedure) and provided by the MercyAscot Specialist to the Director of Credentialing. This must be done at least seven days prior to the intended visit. The Visiting Specialist Application Form can be requested by emailing Credentialing@comms.mercyascot.co.nz.

7.6 MercyAscot is under no obligation to approve any Visiting Specialist Application. MercyAscot will advise the MercyAscot Specialist in writing as to whether the application has been approved or declined. Where MercyAscot approves the application, it will offer the visiting specialist Visiting Privileges. These privileges will be recorded in writing along with the specific facility, date, time the visiting specialist will be visiting and the technique/procedure the visiting specialist will be assisting with or demonstrating.

7.7 The visiting specialist is to be under the direct supervision of the MercyAscot Specialist at all times, and will be required to comply with the Bylaws and all applicable MercyAscot policies and procedures while on site.

7.8 Visiting specialists may require clearance in accordance with the MercyAscot Infection Prevention and Control and Health and Safety policies. Where there is any doubt in respect of this, it is recommended to seek advice at the time of making the Visiting Specialist Application, so that a time-frame is available for suitable arrangements to be made.

Fellows, Registered Medical Officers (RMOs) and Medical Students

7.9 MercyAscot encourages the education and training of Fellows, RMOs and Medical Students. There are established relationships with the University of Auckland School of Medicine and Health Sciences, District Health Boards, and Health Workforce New Zealand in participation and contributing to continuing education and training of health professionals.

7.10 Where a MercyAscot Specialist wishes to bring a Fellow, RMO or Medical Student on site to undertake specified types of procedures and/or work, the Specialist will submit a completed Supervision Agreement to the Director of Credentialing, and ensure that the Fellow, RMO or Medical Student submits a completed Fellow, RMO or Medical Student Application Form to the Director of Credentialing at least seven days prior to intended start date of the Fellow, RMO or Medical Student. These forms can be requested by emailing Credentialing@comms.mercyascot.co.nz.

7.11 MercyAscot is under no obligation to approve any application made under clause 7.10 and will advise the Specialist in writing as to whether the application has been approved or declined. Where MercyAscot approves the application, it will offer the Fellow, RMO or Medical Student limited privileges under the direct supervision of the Credentialed Specialist. These privileges will be recorded in writing and will specify the types of procedures and/or work that the Fellow, RMO or Medical Student will undertake, the relevant MercyAscot facility and the start and expiry dates of the privileges.

7.12 Fellows, RMOs and Medical Students must wear appropriate identification at all time while on site. Fellows, RMOs and Medical Students remain under the responsibility of the relevant Specialist and are required to comply with these Bylaws and all applicable MercyAscot policies and procedures.

7.13 The Specialist must ensure that patients advised, and appropriate consent is obtained and documented prior to any Fellow/RMO/Medical Student attending during the patient's treatment. The charge nurse of the appropriate department must be advised of such intended attendance.

Emergency credentialing

7.14 In the event that an Emergency arises with a patient and the relevant credentialed Specialist (or nominated alternative) is not available, the Chief Executive Officer, Director of Credentialing, Clinical Nurse Advisor or General Manager of the relevant facility is permitted to verbally grant emergency privileges to any appropriately qualified medical practitioner, registered or enrolled nurse, or other health practitioner to do what is necessary to prevent permanent harm/or death. Such privileges will last for a maximum of 48 hours.

7.15 An "Emergency" is defined as any situation which could result in permanent harm/death of a patient where there is any delay in obtaining appropriate treatment.

Other Health Practitioners seeking credentialing

7.16 Independent practitioners such as nurse specialists, speech language therapists, cardiac perfusionists, physiotherapists and other associated independent health practitioners are required to be credentialed under the MercyAscot Independent Practitioners Credentialing Policy.

8 TERM OF GENERAL PRIVILEGES

8.1 Subject to clause 8.2 and 8.3, General Privileges may be granted for a maximum period of five years.

8.2 A newly credentialed Specialist (i.e. a Specialist that has not been credentialed to use MercyAscot's facilities before) has a provisional term of one year. Notwithstanding any other provision of these Bylaws, MercyAscot may terminate a newly credentialed Specialist's privileges at any time without cause within that first year on written notice to the Specialist.

8.3 Subject to clause 9.2, no Specialist will have access or use of MercyAscot facilities after the expiry date of their privileges.

Resignation

8.4 Specialists may resign (and therefore terminate their own privileges) by giving three months' notice in writing to the Chief Executive Officer.

Termination on notice

8.5 Notwithstanding any other provision in these Bylaws, the Chief Executive Officer may terminate any Specialist's privileges or modify their Approved Area of Practice at any time by giving the Specialist three months' notice in writing, provided that the reason for doing so is not a concern, complaint or allegation about the Specialist's behaviour, competence or fitness to practise, compliance with these Bylaws, or conduct by the Specialist which may be or may have been harmful to the interests or reputation of MercyAscot or a MercyAscot facility. The appropriate process for resolving any such concern, complaint or allegation is set out in clause 12.

9. RE-CREDENTAILING

Re-Credentialing application

9.1 If a Specialist wishes to continue to practise at MercyAscot after their General Privileges expire, the Specialist must submit a completed Re-Credentialing Application Form and all supporting information and documents to MercyAscot at least three months prior to the expiry of privileges, be offered new General Privileges in an Approved Area of Practice and enter a new practice agreement with MercyAscot.

9.2 Provided that the Specialist has submitted a completed Re-Credentialing Application Form and all supporting information and documents to MercyAscot by the applicable deadline, then notwithstanding clause 8.3, the Specialist will continue to hold General Privileges in their current Approved Area of Practice until the Board makes a final decision on the reapplication. If the Specialist has not submitted a completed Re-Credentialing Application Form and all supporting information and documents to MercyAscot by the applicable deadline, then the Specialist's privileges will terminate on the relevant expiry date and the Specialist will have no access or use of MercyAscot facilities after that date (unless and until they are offered new General Privileges in an Approved Area of Practice and has entered into a new practice agreement with MercyAscot).

Process

9.3 The process that MercyAscot will follow to assess re-credentialing applications will be as per initial credentialing applications under clauses 6.5, 6.6, 6.8a) and b), and 6.9 - 6.11, except that:

a. references are not required;

b. only qualifications and education obtained since the Specialist was last offered privileges will be verified;

c. only the Specialist's clinical activity at MercyAscot and other facilities since they were last granted credentials at MercyAscot will be assessed;

d. no interview will be required; and

e. no temporary credentials will be available.

Final decision

9.4 Where the Board proposes to accept a re-credentialing application, MercyAscot will notify the Specialist in writing and will offer the Specialist new General Privileges in an Approved Area of Practice, and a new practice agreement.

9.5 Where the Board proposes to decline a re-credentialing application or offer the Specialist new General Privileges in a reduced Approved Area of Practice from what they had previously had (for example, if Advanced Procedures are removed from that Approved Area of Practice) or in an Approved Area of Practice with new restrictions or conditions, MercyAscot will:

a. notify the Specialist in writing of the proposal and the reasons for proposing to do so;

b. give the Specialist a reasonable opportunity to comment on that proposal; and

c. consider the Specialist's comments in good faith.

9.6 After undertaking the process set out in clause 9.5, the Board will make a final decision on the re-credentialing application, and will notify the Specialist in writing of that decision. If a Specialist's re-credentialing application is declined, the Credentialed Specialist may not make a further application for clinical privileges at MercyAscot for a period of two years from the date that the Specialist was notified of the final decision to decline the application.

10 RELATIONSHIPS

Relationship with MercyAscot

10.1 MercyAscot will have no legal or equitable relationship whatsoever with any medical practitioner until the practitioner has successfully completed the initial credentialing process, have been offered General Privileges in an Approved Area of Practice and has entered into a Practice Agreement with MercyAscot. Once this has occurred, both parties are legally bound by the terms and conditions set out in that agreement (including the obligation to comply with these Bylaws).

10.2 Neither the offering nor granting of any form of clinical privileges to a medical practitioner nor anything contained in these Bylaws (or any related forms or documents) creates any relationship of employer/employee or principal/independent contractor between any MercyAscot entity and any medical practitioner. MercyAscot shall not be liable for any acts, errors or omissions of any Specialist or other medical practitioner on site.

10.3 Specialists practise on their own account and are solely responsible for exercising their own independent medical judgement, and their own practice and conduct while practising at a MercyAscot facility.

Relationship with patients

10.4 A Specialist's relationship with their patient is entirely independent of MercyAscot's relationship with the patient. Specialists will enter into an agreement directly with their patients to provide services (for example, surgical services, anaesthetic services and medical services). The terms of that agreement (which must include 'consent' to both clinical treatment and payment of practitioner fees) are entirely a matter for the Specialist and patient. It is the Specialist's responsibility to ensure that patients are properly informed about the nature of their relationship with MercyAscot.

10.5 In order to maintain business efficiency, Specialists must compile and render accounts to patients in a timely manner.

10.6 MercyAscot's procedures and processes relating to operating lists are set out in Specialists Responsibilities.

11 MAINTAINING CLINICAL PRIVILEGES

11.1 Specialists must hold current clinical privileges in an Approved Area of Practice with MercyAscot in order to access and use MercyAscot facilities.

11.2 Specialists are required to maintain:

a. registration with the Medical Council of New Zealand within an appropriate vocational scope of practice;

b. a current APC;

c. membership of a recognised specialty college;

d. participation in a recognised speciality college CME / CPD programme; and

e. current indemnity insurance that is satisfactory to MercyAscot.

11.3 Specialists are required to complete MercyAscot's annual update process by the applicable deadline (which will be notified to the Specialists). This process may require the submission of the Specialist's APC and evidence of current indemnity insurance, current participation/completion of their specialist college CME / CPD programme, and current membership of a recognised specialty college. The Specialist also agrees to provide those documents and evidence to MercyAscot on request. The annual update process may also include a review (in the sense of a constructive conversation) with the Specialist and discussion of their CPD progression, and any audits, training and support that the Specialist may consider undertaking or obtaining in the coming year. MercyAscot will re-confirm the Specialists credentialed status at the completion of the annual update process.

11.4 From time to time, MercyAscot may contact the Medical Council of New Zealand and/or the Specialist's indemnity organisation to confirm compliance with clause 11.2 a) and b) and e) (as applicable). The Specialist consents to the disclosure of information about the Specialist by those organisations.

11.5 Regardless of any other provision of these Bylaws, if a Specialist has their Medical Council of New Zealand registration or APC cancelled or has their membership of their specialist college cancelled, the Specialist's privileges will automatically and immediately terminate.

11.6 Without limiting clauses 11.2 or 11.3, Specialists are also required to:

a. comply with applicable law, regulations, and legal, professional, ethical standards and codes;

b. maintain, and comply with, any specific licence required to practise e.g. licence issued by the Office of Radiation Safety;

c. co-operate with all required safety and other checks;

d. participate in all credentialing related processes;

e. behave in a manner consistent with accepted professional practice and the expectations of MercyAscot, for example, not engaging in bullying, harassment or dishonest conduct;

f. only practise within their individual Approved Area of Practice. It is the Specialist's responsibility to monitor this;

g. follow evidence based treatment as current best practice;

h. do nothing that might harm MercyAscot's interests or reputation or that of its facilities;

i. comply with these Bylaws, all applicable MercyAscot policies and procedures, and all reasonable requests and instructions from MercyAscot;

j. comply with the terms of MercyAscot's agreements with health insurers (as notified to the Specialist by MercyAscot); and

k. act fairly towards other Specialists, allied health professionals and staff at MercyAscot. For example, by ensuring that they do not use their credentialed status to opt-out of clinical responsibilities that are part of their role for reasons of convenience or unfairly demand resources or assert competitive advantage over a fellow practitioner.

11.7 Any failure to comply with the requirements of clause 11.2, 11.3 or 11.6 may result in the Specialist's clinical privileges being suspended or terminated or restrictions or conditions imposed on their Approved Area of Practice.

Minimum contacts

11.8 Specialists must maintain familiarity with the MercyAscot environment, policies and procedures. In order to do so, each Specialist will undertake regular clinical work on site at a MercyAscot facility. For theatre-based Specialists (e.g. surgeons and anaesthetists) this is at least ten contacts during each twelve-month period that they hold privileges. The number of contacts required for ward-based specialists is at MercyAscot's discretion (to be exercised reasonably).

11.9 If a Specialist does not meet the requirements of clause 11.8, they will be moved to an 'inactive list'. Specialists on this list will not be required to complete MercyAscot's annual update processes but will need to complete a reactivation process (as advised by MercyAscot) if they next wish to use MercyAscot facilities.

12 REVIEWS OF CLINICAL PRIVILEGES

12.1 From time to time, concerns, complaints and allegations may arise in relation to a Specialist. When this occurs, MercyAscot will treat patient and employee safety as the paramount considerations while also being as fair as possible to the Specialist.

12.2 Subject to clause 12.3, the Chief Executive Officer may at any time initiate a review into whether it is appropriate for a Specialist to continue to hold clinical privileges and/or whether the Credentialed Specialist's Approved Area of Practice is appropriate, where MercyAscot has concerns, or complaints or allegations are made, about any of the following:

a. the Specialist's behaviour;

b. the Specialist's competence or fitness to practise;

c. the Specialist's compliance with these Bylaws; or

d. conduct by the Specialist which may be or may have been harmful to the interests or reputation of MercyAscot or a MercyAscot facility.

12.3 Prior to commencing any review, the Chief Executive Officer will advise the Specialist (verbally or in writing) of the concerns, complaints or allegations and provide the Specialist with an opportunity to provide an initial response to those concerns, complaints or allegations (what a 'reasonable opportunity' is will depend on the particular circumstances and if there are immediate patient safety risks, this may need to be a very short period of time). The Chief Executive Officer, on hearing the Specialist's response, will consider the response in good faith and determine in his or her sole discretion whether or not to proceed with a review.

12.4 Where the Chief Executive Officer decides to initiate a review he or she will, subject to clause 12.5, establish the terms of reference for the review and select an appropriate person(s) to carry out the review (the **Reviewer**). In establishing the terms of reference and selecting the Reviewer, the Chief Executive Officer may consult with or utilise any person and/or any MercyAscot committee.

12.5 The Chief Executive Officer will notify the Specialist of the review, the proposed terms of reference for the review and the proposed identity of the Reviewer and give the Specialist a reasonable opportunity (as described in clause 12.3) to object to those proposals. The Chief Executive Officer will consider any objection made by the Specialist in good faith before making a final decision on the terms of reference for the review and the Reviewer.

12.6 Any review will be conducted and concluded, and the Reviewer will make a non-binding recommendation to the Board, as soon as practicable having regard to the nature of the concerns, complaints or allegations. The Specialist will co-operate with any review undertaken under these Bylaws and will be notified of Reviewer's recommendations in writing as soon as practicable following the conclusion of the review.

13. SUSPENSIONS AND RESTRICTIONS

13.1 Subject to clause 13.2 and 13.3, and without limiting MercyAscot's right to undertake a review under clause 12, the Chief Executive Officer may immediately impose temporary restrictions and/or conditions on a Specialist's Approved Area of Practice (for example, by removing Advanced Procedures) or suspend a Specialist:

a. where the Chief Executive Officer considers that it is in the interests of patients, staff and/or practitioner safety to do so;

b. where serious and unresolved allegations are made by any person in relation to the Specialist including allegations that relate to misconduct or inappropriate behaviour;

c. where the Specialist's conduct may:

› (i) be harmful to the interests or reputation of MercyAscot or any MercyAscot facility;

› (ii) disrupt to the efficient operation of MercyAscot, or any MercyAscot facility; or

› (iii) cause MercyAscot to breach any of its legislative or legal obligations.

d. on receipt of advice from a Specialist under clause under clause 15.11a) – j) or a failure by the Specialist to provide that advice; or

e. where the Specialist fails to comply with a reasonable request from the Reviewer or any recommendations made as a result of a review.

13.2 Prior to imposing any temporary restrictions and/or conditions or imposing a suspension under clause 13.1, the Chief Executive Officer:

a. may in his or her sole discretion consult any person(s) and/or any MercyAscot committee he or she deems appropriate and relevant in the circumstances;

b. will notify the Specialist (verbally or in writing) of the proposal to:

› (i) impose any temporary restrictions and/or conditions on the Specialist's Approved Area of Practice, along with the detail of those restrictions and/or conditions, the reasons for their imposition and the start and end date of the proposed period they will remain in place; or

› (ii) suspend the Specialist, along with the start and end date of the proposed period of the suspension, and the reasons for the suspension.

13.3 The Chief Executive Officer will provide the Specialist with a reasonable opportunity to provide a response to the proposed action (what a 'reasonable opportunity' is will depend on the particular circumstances and if there are immediately patient safety risks, may need to be a very short period of time). On hearing the Specialist's response, the Chief Executive Officer will consider the response in good faith and in his or her sole discretion determine whether or not to proceed with the proposed action.

13.4 If the Chief Executive Officer does decide to impose any temporary restrictions and/or conditions on the Specialist's Approved Area of Practice or suspend the Specialist under clause 13.3, the Chief Executive Officer will:

a. notify the Specialist immediately of that decision along with the following:

› (i) the detail of the restrictions and/or conditions, the reasons for their imposition and the period they will remain in place; and/or

› (ii) the period of the suspension and the reasons for the suspension, as soon as practicable provide that notice in writing; and

b. if the Chief Executive has not already done so, take the steps set out in clause 12.4 and 12.5. The provisions of clause 12.6 will apply to any review undertaken while the Specialist is subject to temporary restrictions and/or conditions or has been suspended.

13.5 Any restrictions and/or conditions or suspension imposed under clause 13.4 will end on the earliest of the following:

a. the end date specified by the Chief Executive Officer under clause 13.4(a);

b. the date that the Specialist's clinical privileges are terminated or that permanent restrictions or conditions are imposed under clause 14; or

c. the date that the Specialist is notified by MercyAscot that they are exonerated.

14 PERMANENT RESTRICTIONS AND/OR CONDITIONS AND TERMINATION

14.1 After receiving any report and recommendation from the Reviewer, the Board excluding the Managing Director (the **Board**) may obtain any additional information and/or documents that he or she believes are necessary to properly consider whether it is appropriate for a Specialist to continue to hold clinical privileges and/or whether the Specialist's Approved Area of Practice is appropriate.

14.2 After considering the report, recommendation and any additional information and/or documents, the Board will, subject to clause 14.6, make a decision about what action it proposes to take in relation to the Specialist. Such actions may include:

a. terminating the Specialist's clinical privileges;

b. reducing the Specialist's Approved Area of Practice; imposing conditions or restrictions on the Specialist's Approved Area of Practice (for example, by removing Advanced Procedures); and

c. any other action that the Board deems appropriate.

14.3 The Board may consult any person(s) and/or any MercyAscot committee it deems appropriate and relevant in the circumstances in the course of meeting its obligations and exercising its rights under this clause 14.

14.4 Where the Board proposes to take any action other than to allow the Specialist to continue to hold clinical privileges in their current Approved Area of Practice, the Board will:

a. notify the Specialist of what the Board proposes to do and the reasons for doing so;

b. provide to the Specialist a copy of the report, recommendation and any additional information and/or documents that the Board has considered in relation to the Specialist;

c. give the Specialist a reasonable opportunity to offer any explanation or evidence in response to the imposition of restrictions and/or conditions or termination; and

d. consider the Specialist's explanation and evidence in good faith

14.5 After undertaking the process set out in clause 14.4, the Board will make a final decision on what action to take in relation to the Specialist. The Board will then notify the Specialist in writing of that decision and the date that the action will take effect.

14.6 The Board may only permanently modify a Specialist's Approved Area of Practice in a significant manner or terminate a Specialist's clinical privileges (except under clause 5.10, 8.2 or 8.5), where:

a. the Specialist has breached an obligation under these Bylaws and that breach has resulted in, or is reasonably likely to result in:

› (i) harm to the safety of patients, staff and/or practitioners;

› (ii) disruption to the efficient operation of MercyAscot, or a MercyAscot facility;

› (iii) harm to the interests or reputation of MercyAscot or a MercyAscot facility; or

› (iv) MercyAscot breaching any of its legislative or legal obligations.

b. the Specialist is the subject of a criminal investigation about a serious matter, or has been convicted of a crime, which could affect the Specialist's ability to practise safely and/or with the confidence of MercyAscot;

c. conditions or restrictions have been imposed on the Specialist's Medical Council of New Zealand scope of practice, or the Specialist has agreed an undertaking with Medical Council of New Zealand, and MercyAscot does not consider that it is reasonable or practical in the circumstances to accommodate those conditions or restrictions or that undertaking;

d. the Specialist is, or is about to become, incapable of performing their duties under these Bylaws for a continuous period of six months;

e. the Specialist's level of competence, fitness to practise or performance is not adequate;

f. there is not an adequate level of confidence held in the Specialist; or

g. the Specialist has not utilised MercyAscot facilities for a continuous period of twelve months.

15 INFORMATION

15.1 MercyAscot collects Personal Information and Health Information (as those terms are defined in the Privacy Act 2020 and the Health Information Privacy Code 2020, respectively) about its Specialists (**Information**). Usually, MercyAscot collects this Personal Information and Health Information directly from Specialist concerned; however, sometimes MercyAscot collects Personal Information and Health Information from other sources such as other facilities or providers at which a Specialist has previously practised, currently practises or intends to practice (**Other Providers**) and/or the Medical Council of New Zealand.

15.2 Each Specialist consents to Personal Information and Health Information about the Specialist collected by MercyAscot from the Specialist being collected, used and disclosed for the following purposes:

a. in the interests of patient safety;

b. ensuring the delivery of safe and high quality health services;

c. considering matters relating to the Specialist's clinical privileges and Approved Area of Practice;

d. to allow MercyAscot and its related entities to function effectively;

e. any other purpose set out in these Bylaws (as amended or updated from time to time),

(collectively, **Purposes**).

15.3 Each Specialist also consents to MercyAscot obtaining Personal and Health Information about the Specialist (**Information**) from other sources such as referees, current or previous colleagues, other healthcare providers where the Specialist currently practises or has practised, their medical or surgical college or specialist organisation or association, the Medical Council of New Zealand and the Health and Disability Commissioner (**Third Parties**). for any Purpose (as defined above).

15.4 Each Specialist authorises Third Parties to disclose Information to MercyAscot for any Purpose (as defined above) and authorises MercyAscot to disclose Information to Third Parties for any Purpose (as defined above).

15.5 Each Specialist understands and agrees that from time to time Information may be provided to MercyAscot by Third Parties in confidence and this may constitute evaluative material and might not be disclosed to the Specialist. The purpose of these protections is to ensure that Third Parties feel comfortable providing accurate information and honest opinions to MercyAscot and that in turn, MercyAscot has good quality information on which to base its decisions.

15.6 Without limiting any other provision of these Bylaws, any suspension of a Specialist's clinical privileges, restrictions and/or conditions imposed on, or changes to, a Specialist's Approved Area of Practice, or termination of a Specialist's clinical privileges may be reported by MercyAscot to the Medical Council of New Zealand, relevant specialty college, or any other hospital or place where the Specialist does or has practised, or any other authority deemed appropriate and relevant by MercyAscot.

15.7 Healthcare providers have a responsibility to facilitate a co-ordinated and responsible approach where there are concerns about a medical practitioner. Sometimes this may involve informing Third Parties about a potential or actual risk to patient safety or other matters that may affect the delivery of safe and high quality health services. From time to time, it may also be appropriate to notify health insurance providers of certain matters. Accordingly, each Specialist authorises MercyAscot to disclose Information to Third Parties and health insurers in the interests of patient safety and/or for the purpose of ensuring the delivery of safe and high quality health services.

15.8 It may also be necessary for MercyAscot to disclose Personal and/or Health Information about a Specialist to the members of a clinical or other committee and/or individuals involved in clinical governance at MercyAscot. Accordingly, each Specialist consents to such disclosure.

15.9 All Information will be kept secure by MercyAscot. The Specialist is entitled to ask for a copy of such Information and to ask for it to be corrected if they think it is wrong. Specialist should contact Credentialing@comms.mercyascot.co.nz to do so.

15.10 Specialists consent to the Information being retained by MercyAscot for the Purposes (as defined above), and acknowledge that after that time, the Information will be securely destroyed.

Required disclosures

15.11 A Specialist must immediately advise the Chief Executive Officer in writing, disclosing all relevant details, where they:

a. are subject to any investigation, enquiry, review, complaint and/or disciplinary process about their competence, conduct and/or clinical practice, by any of the following:

- the HDC
- the Coroner
- Medical Council of New Zealand
- their college or specialist organisation or association
- any DHB
- any other facility or other organisation.

Details to be advised to the Chief Executive Officer are:

- the type of investigation;
- the relevant organisation; and
- in due course, the outcome e.g. suspension, cancellation, termination, restrictions, and conditions including any that are self-imposed)

b. are removed from the Medical Council of New Zealand register or have their APC suspended;

c. impose any conditions on their own practice (whether at MercyAscot or anywhere else) or wish to do so;

d. are involved in a significant ACC treatment injury claim;

e. have or develop a condition (whether physical or mental and including substance abuse and addictions) medical treatment and/or medication which may affect their ability to effectively carry out their functions and responsibilities;

f. are subject to circumstances which may affect their competence or ability to provide treatment within their Approved Area of Practice;

g. have their appointment, credentialing status or scope of permitted practice at any other hospital or any other place where the Specialist does or has practised altered in any way, including withdrawn to any degree, terminated suspended, restricted and/or made conditional and whether by way of agreement or otherwise;

h. are charged with a criminal offence or is involved in any criminal proceedings;

i. seek the advice of and/or notify the Medical Council of New Zealand health matters;

j. discover that some else has notified the Medical Council of New Zealand of health matters relating to the Specialist; or

k. intend to work solely in private practice.

15.12 The failure to disclose any of the circumstances set out above, may result in restrictions or conditions being imposed on the Specialist's Approved Area of Practice or the suspension or termination of the Specialist's clinical privileges.

15.13 In respect of clause 15.11e) above, MercyAscot may require the Specialist to seek independent medical advice on the impairment, disability, disorder, condition or substance abuse issue. The Specialist authorises MercyAscot to access the advice received by the Specialist from the independent medical practitioner and any records directly relating to that advice. Subject to clauses 15.6 and 15.8, MercyAscot will keep and maintain any advice and any directly related records it accesses on a confidential basis but MercyAscot may rely on that advice and any related records.

15.14 Where a Specialist requires time away from the work place for treatment, the Specialist must provide MercyAscot senior management with evidence of medical clearance of being able to return to work. Subject to clauses 15.6 and 15.8, this information will be treated confidentially.

15.15 The Medical Council of New Zealand have advised that doctors who know or believe themselves to be infected with HBV, HCV, or HIV could put patients at risk, so must seek appropriate counsel, and act upon that advice. This advice could include a requirement not to practice, or limit practice in certain ways. No doctor with such infections should continue in clinical practice merely upon the basis of his/her own assessment. In any such circumstance the Chief Executive Officer is to be advised and the Specialist should inform their medical indemnifying authority.

15.16 Disclosure of any such health concern is a requirement of the Medical Council of New Zealand.

Confidentiality

15.17 In the course of practising at MercyAscot, Specialists may be exposed to information relating to the business, finances or other affairs of MercyAscot and/or related entities that is either disclosed as being confidential or could reasonably be presumed to be confidential **(Confidential Information).**

15.18 Specialists will keep the Confidential Information confidential until such time as the Confidential Information ceases to be confidential (which may be after the Specialist stops practising at MercyAscot).

16 APPEALS

16.1 A Specialist may lodge an appeal to the Managing Director on the sole grounds that MercyAscot has not complied with a relevant provision of these Bylaws and one of the following circumstances applies:

a. The Specialist's re-credentialing application has been declined;

b. The Specialist disagrees with the ambit of the Approved Area of Practice that the Chief Executive Officer has offered on re-credentialing;

c. The Specialist's Approved Area of Practice has been modified for a period longer than three months;

d. The Specialist's clinical privileges have been suspended for a period longer than three months; or

e. The Specialist's clinical privileges have been terminated under clause 14.6.

16.2 There is no right of appeal from a decision:

a. on applications for Temporary, Visiting, Fellow, and Medical Student;

b. on initial credentialing applications;

c. to modify a Specialist's Approved Area of Practice for a period less than three months;

d. to terminate a Specialist's clinical privileges or modify their Approved Area of Practice under clause 5.10, 8.2 or 8.5; or

e. to suspend a Specialist's clinical privileges for a period less than three months.

16.3 All appeals must be lodged within one month of the date that the Specialist was notified of the relevant decision.

16.4 All appeals must be in writing, set out the grounds for the appeal and must be accompanied by all information the Specialist wishes to rely on to support the Specialist's appeal. Additional information may be provided by the Specialist where it is reasonable to do so.

16.5 The Managing Director is responsible for making a decision on the appeal but may co-opt any other person(s) to assist it, or make recommendations to it, in respect of the appeal.

16.6 The Managing Director will conduct the appeal as the Managing Director chooses and is not required to conduct a hearing. However, the Managing Director will advise the Specialist of the process that will be adopted for the appeal after the appeal is received.

16.7 The Managing Director will notify the Specialist of the Managing Director decision and the reasons for that decision within a reasonable time.

17 RESPONSIBILITIES

Code of conduct

17.1 MercyAscot is committed to its core values of Adaptability, Accountability, Customer Service and Communication. All attending Specialists are required to develop a professional teamwork approach with MercyAscot employees. This should be based upon mutual respect of the talents and abilities of each other. All communication should be respectful and conducted in a civil manner.

17.2 Unprofessional behaviour (including bullying, harassment or dishonest conduct) may adversely affect the effective function of MercyAscot employees, and be prejudicial to patient care, safety and outcome. Any such behaviour is unacceptable.

Health and safety

17.3 When working at MercyAscot facilities, Specialists are expected to comply with MercyAscot Health and Safety, and, Emergency Response policies and procedures so as to ensure the safety of patients, employees of MercyAscot, and themselves.

17.4 Specialists working at MercyAscot will, almost certainly, have their own responsibilities as a person conducting the business or undertaking (**PCBU**) under the Health and Safety at Work Act 2015 (**HWSAA**). Specialists are responsible for meeting their own responsibilities under the HWSAA. Specialists will consult, cooperate and coordinate on health and safety matters with MercyAscot.

17.5 Specialists, and all MercyAscot employees, must report any incident that has caused or has the potential to cause personal harm. The incident is to be logged in the electronic incident system on Paywiz and notified to the Charge Nurse/Clinical Nurse Advisor for further investigation and management.

Quality, audits and improvement projects

17.6 MercyAscot has a Quality Programme committed to the organisations Vision and Values. The programme is based on continuous improvement, and consequently services and processes may evolve and change over time. Specialists are expected and encouraged to contribute to the programme.

17.7 All deaths, sentinel events, near misses, transfers out will be investigated by senior managers and reviewed by the Director of Credentialing/Medical Advisor, Clinical Advisory Board and the Quality and Risk Committee. When requested, Specialists must provide reports relating to such events and participate in reviews / investigations. Specialists will participate if they are directly involved in an event or may be asked to contribute in the capacity of an independent peer reviewer. All such events are reported to the Clinical Advisory Board, which may advise the Chief Executive Officer of any findings/recommendations. The Specialists will be advised of such findings. In specific circumstances Specialists may be invited to attend a meeting of the Clinical Advisory Board.

17.8 In the event of any adverse outcome whilst receiving healthcare at MercyAscot, Specialists are responsible for disclosure of such issues to the patient/family or representative of the patient in line with open disclosure requirements and guidance. It is important for such disclosure to be witnessed and documented within the clinical records. If appropriate, Specialists are responsible for advising such issues to the Accident Compensation Corporation. In addition, Specialists must inform MercyAscot of any patient complication that may occur for patients treated at MercyAscot facilities.

17.9 Specialists are expected to comply with audit programmes. Documentation of participation will be provided to relevant Colleges on request relating to Professional Development Programme requirements. Specialists are also expected to proactively collect quality and audit data as evidence of their competence and report their own and others' diminishing competence to MercyAscot.

17.10 MercyAscot senior managers, through the Clinical Advisory Board, may from time to time initiate an audit of practice to review compliance of procedure, policy, standards and consider opportunities for improvement. Specialists are expected to participate in these audits.

17.11 MercyAscot facilities and practices are reviewed regularly by external audit authorities for certification as part of requirements for the Ministry of Health and Disability Standards, Accreditation, and EQuIp5 NZ Standards. Specialists may be asked to participate in these audits.

17.12 MercyAscot actively seeks feedback of each patient admitted for healthcare. Specific feedback will be advised from the charge nurses to Specialists and employees. Specialists must participate in the resolution of any concerns.

17.13 MercyAscot actively seeks, and expects Specialists to contribute to improvements of care of patients, by way of reporting issues of concern with appropriate charge nurses or senior managers.

17.14 The MercyAscot Quality Awards are open to Specialist participation.

Clinical research

17.15 Clinical research is a valued and integral component of clinical medicine. The special nature of MercyAscot however, is that patient expectations may differ from those within a Public Hospital setting.

17.16 Applications for a research study are to be submitted to the Director of Credentialing. All applications must have approval of the relevant National/Regional Ethics Committee. All applications are reviewed by the Director of Credentialing and appropriate senior managers within the organisation.

17.17 All research must be approved by the Director of Credentialing or the Chief Executive Officer. MercyAscot will not be under any obligation to approve any such applications. On completion of a research study, a report outlining results/outcomes must be submitted.

Innovative procedures or technologies

17.18 Specialists should read and comply with MercyAscot's New Services, Procedures or Techniques policy.

Public statements

17.19 Specialists will not make or issue any statement to the media relating to the treatment of a patient without prior consultation with the Chief Executive Officer and the patient's medical practitioners, and obtaining the consent of the patient or their next of kin.

17.20 MercyAscot respects and recognises the right of Specialists to engage in public debate and dialogue on matters relevant to their professional expertise and experience. The Specialists must, however, prior to entering into such public debate and dialogue about any issues that is relevant to MercyAscot, advise MercyAscot of the issues that the Specialist intends to raise.

17.21 MercyAscot will not prepare, use or make, any marketing material, media releases or public statement which directly or indirectly refers to a Specialist without first obtaining the approval of that Specialist (which will not be unreasonably withheld and will be provided in a timely manner).

Use of names and logos

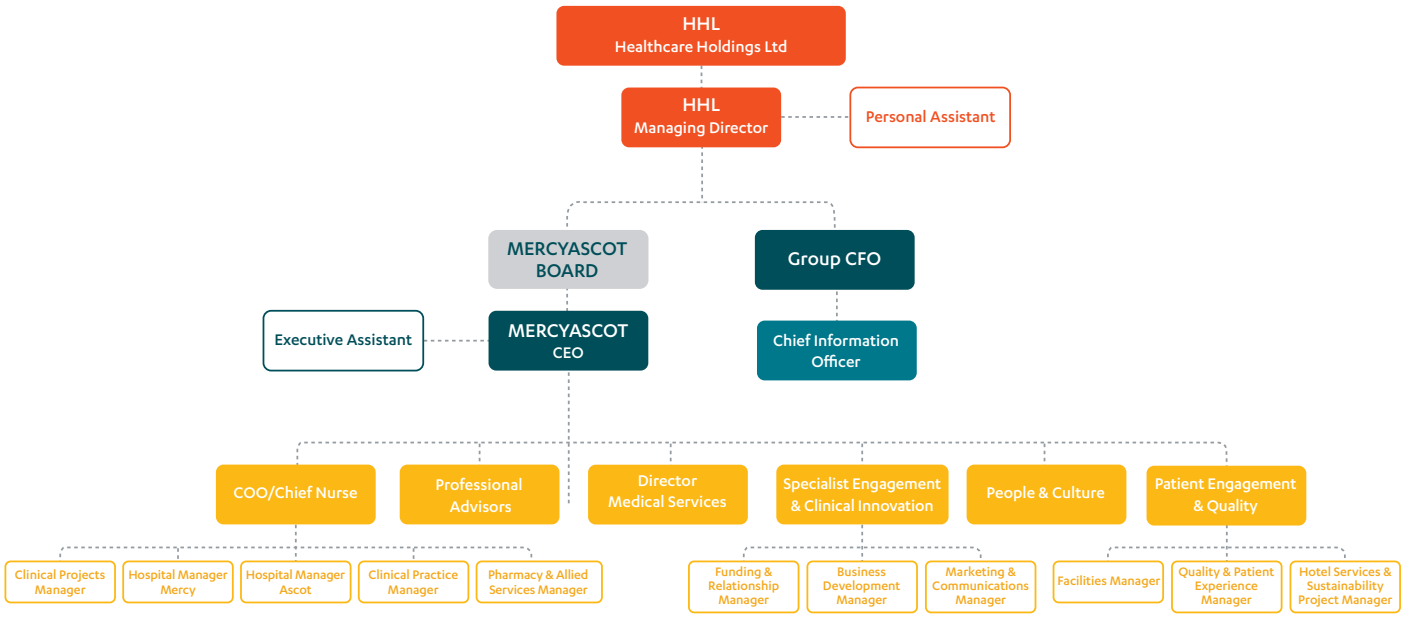
17.22 All rights to the use of the names and logos of MercyAscot belong to MercyAscot or its licensors. Use of those names and logos by any Specialist requires prior written agreement from the Chief Executive Officer.

18 REVIEW OF BYLAWS

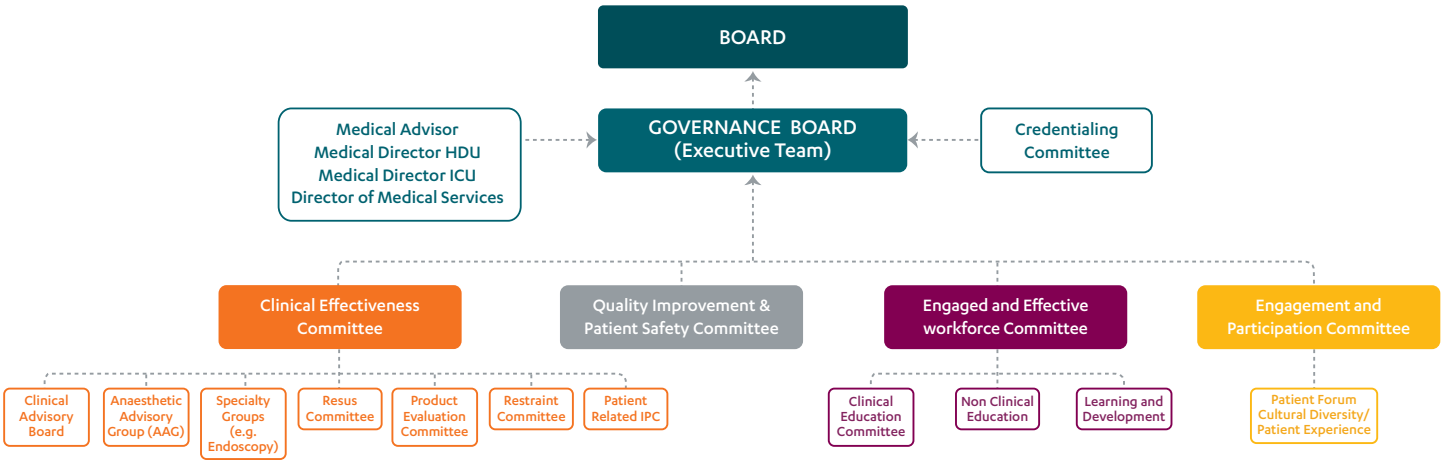
18.1 A review of part or all of these Bylaws may be initiated by the Chief Executive Officer and submitted to the Board of MercyAscot for consideration. Specialists will be invited to provide feedback on any changes to the Bylaws that are likely to have a significant impact on them but the Board of MercyAscot has the sole discretion to approve any changes.

Appendices

APPENDIX 1: ORGANISATIONAL STRUCTURE



APPENDIX 2: CLINICAL GOVERNANCE



APPENDIX 3: DEFINITIONS

1. **"Anaesthetic Advisory Group"** means the invited representatives of the private anaesthetic groups, independent private anaesthetists and MercyAscot senior managers that review and advise the CEO on all matters pertaining to anaesthetic practice and peri-operative medicine including review of critical events, morbidity and mortality data, clinical audit processes, professional performance of credentialed Specialists, and anaesthetic equipment issues.

2. **"Approved Area of Practice"** has the meaning given to it in clause 5.6.

3. **"Board"** means the Board of Directors of MercyAscot, and its representatives.

4. "**Bylaws"** means the Specialist Bylaws 2021, as amended and updated from time to time;

5. **"Chief Executive Officer" (CEO)** means the person appointed by the Board and is responsible for the management of MercyAscot.

6. **"Clinical Advisory Board"** means a forum of Specialists and invited representatives from the MercyAscot facilities to discuss and advise the CEO on critical events, morbidity and mortality data, clinical audit processes, and, from time to time, the Specialists. It is chaired by the "Chief of Surgery" and reports to the CEO and to the Board of MercyAscot on issues defined within the terms of reference.

7. **"Clinical Nurse Advisor"** means the person responsible to the CEO for the professional development of nursing services.

8. **"Credentialing Committee"** means the committee described as such in clause 4.5.

9. **"Director of Credentialing"** means the MercyAscot Officer responsible for the management of the credentialing process. They are appointed by the CEO and (amongst other things) are responsible for clinical governance and compliance with professional standards and operational requirements of Specialists.

10. **"Managing Director" or "MD"** means the person appointed by the Board of Directors.

11. **"Medical Advisor"** means the person suitably qualified as a medical Specialist appointed by and responsible to the MD/CEO to advise on clinical matters.

12. **"MercyAscot"** means The Ascot Hospital and Clinics Limited trading as 'MercyAscot'.

13. **"Specialists"** are those specialists who have successfully completed MercyAscot's credentialing (or re-credentialing) process, have been offered General Privileges in an Approved Area of Practice and have entered into a practice agreement with MercyAscot.

14. **"Specialists Responsibilities"** means the Specialist Responsibilities document, as amended and updated from time to time;

15. "Including" and similar works do not imply any limitation.

16. The plural includes the singular and vice versa.

17. Any reference to any policies or procedures are to those document as amended and/or updated from time to time.

APPENDIX 4: REFERENCES

1. Good Medical Practice – a Guide for Doctors, Medical Council of New Zealand April 2013

2. Code of Ethics for the New Zealand Medical Profession, NZMA 2014

3. Unprofessional Behaviour and the Healthcare team. Protecting Patient Safety, Medical Council of New Zealand 2009

APPENDIX 5: MERCYASCOT CODE OF ETHICS

The Bylaws reflect and recognise in full the "Deed relating to the Mercy name". The Code of Ethics is an integral element of the Sisters of Mercy Health Care Philosophy, and is identified within the "Deed relating to the Mercy name", a document of agreement between the Sisters of Mercy Auckland Charities Limited and The Ascot Hospital and Clinics Limited, 2001; in the integration of the two hospitals Ascot Hospital and Clinics Limited with Mercy Hospital to become MercyAscot.

1. GENERAL PRINCIPLES

a. The Patient's Right to Consent to Treatment

In all healthcare decisions, the patient's right to consent to treatment is fundamental. In respecting the autonomy of persons it is the right of every patient with the legal, physical and/or mental capacity to make considered judgements to refuse or request treatment and to own the decisions taken about their healthcare.

Healthcare professionals are responsible for giving patients accurate information about their conditions and the probable effects of treatment options, and for ensuring they have the opportunity to make free and informed judgements. It is recognised that in certain circumstances this ability may be modified by a person's lack of capacity to make considered judgements and/or some medical emergencies.

b. The Patient's Representatives

We acknowledge also the role of the designated or other representatives of the patient in receiving information and speaking on behalf of patients who do not have the capacity to make decisions about their treatment. In such cases the patient's best interests must be the paramount concern of the healthcare team. The role of a patient's representative is to advise the healthcare team of the wishes the patient would have expressed had he or she been able to do so, and to advise the team of the circumstances of the patient prior to admission to the facility.

c. The Purposes of the Treatment

The central obligation of healthcare personnel is to attend to the good of the patient and avoid, prevent or minimise any harm to the patient. This obligation is to be fulfilled in a way, which respects the patient's autonomy.

d. Responsibilities for Treatment Decisions

The ultimate responsibility for decisions about a patient's treatment lies with the patient in conjunction with his/her medical practitioner. It is always necessary to balance the overall probable benefit to the patient with the burdensome or intrusive nature of a procedure or treatment.

All members of the treatment team make their own professional contribution to healthcare decisions and are accountable for their own practice. Members of the team have a right to know the rationale for providing a particular treatment, which they are asked to perform, and an obligation to provide the medical practitioner with information, which may be relevant to the decision.

The integrity of all members of the treatment team must be respected. There must be an established and accessible avenue of appeal where employees believe that this integrity may be compromised. However, the exercise of this right must not jeopardise the quality of the patient's care.

e. Privacy and Confidentiality

Healthcare decisions involve a person's rights and many intimate aspects of a person's integrity. The healthcare team has access to confidential information and the patient's right to privacy must be respected. Information, which would be identified with a person, may not be divulged without his or her consent. However, at times information must be provided to statutory authorities as required by Law.

f. Justice

MercyAscot recognises responsibilities pertaining to justice and fairness. This includes stewardship over the available material and human resources for healthcare and recognises that these resources must be used responsibly. All personnel must act according to the highest ethical standards of their profession and that of MercyAscot.

The Hospital must accept its responsibility to protect employees from occupational hazards. Healthcare, which involves risk to the health of employees, should not be performed without their free and informed consent.

2. SPECIFIC ISSUES

a. Care of Human Life

Life is sacred from its beginning and through all its stages and is to be valued, cherished and cared for regardless of a person's quality of life or contribution to society. The directly intended termination of any human life, unborn or born, frail or handicapped or old, is never permitted.

Foetal Life

Operations, treatments and medication which do not directly intend the termination of unborn life but which have as their purpose the cure of a serious pathological condition of the mother, are permitted when they cannot be postponed until the child is viable without endangering the mother's life, even though they may or will result in the death of the child. Experimentation or research on an embryo or foetus, which is not to the benefit of that human being, is not permitted.

New Life

Euthanasia of infants born with handicaps or defects is not permissible. We reject the idea that mental or physical disability may make the quality of an infant's life not worth maintaining. However, we recognise the need to balance any burdensome and intrusive procedures or treatment against the probable benefits to newborn or young patients with serious birth defects. Parents will play an essential role in decisions about such matters.

b. Human Sexuality and Fertility

In accordance with Christian and Catholic traditions, we believe that the sexual potential of men and women finds its true significance within the union of marriage. We welcome those scientific advances which assist, without replacing, the natural life-giving potential of the act of sexual intercourse and which protect every embryo so conceived. Procedures or treatments whose sole or overriding purpose is sterilisation are not to be undertaken.

c. Care of the Terminally Ill and Dying

As in its beginning, so in its ending, we recognise the sacredness of human life. We believe that no-one should actively and intentionally end a human life, however well motivated such an action may sometimes seem. When a person's life is nearing its end, and when medical treatment of a curative nature is no longer to any avail, or when the possible treatment options are so burdensome and intrusive that they do not balance the probable benefits to the patient, then the goal of treatment becomes palliative.

While many forms of treatment may become inappropriate because they are no longer curative, other forms of treatment will be indicated in so far as they sustain patients in their approach to the end of life.

The skills and support of all those involved in the palliative care of a patient at this time are directed not only to easing pain and suffering, but also to enhancing the dignity and quality of the patient's remaining life and continuing relationships with family and friends.

It is important that a person who is dying is aware of this fact. The medical practitioner, with the patient's representatives, must determine when and by whom the patient is to be informed of his or her condition.

For Christians, the hope of resurrection transforms the mystery of death, and the dying person is encouraged to place his or her trust in Christ who, through his life, death and resurrection, has given a new meaning to human existence and to suffering and death in particular. Equal respect is shown for those who do not profess a religious faith or whose religious beliefs or cultural values differ from our own and every support will be given to them in their dying.

The relatives of the dying person are a special concern and are given every consideration.

After death has occurred, the body of the deceased is to be cared for with dignity and reverence and in accordance with the person's religious beliefs and cultural values.

d. Organ and Tissue Donation

The possibility of transplanting human tissue is a major and welcome advance of contemporary medicine. However, in the process of obtaining tissue for research or therapeutic purposes, living donors must give their free and informed consent, and should not be deprived of the functional integrity of their bodies.

Obtaining organs and tissue for research or therapeutic purposes from patients who have suffered complete and irreversible brain death is permissible provided the procedure is not contrary to the wishes of the patient or the wishes of the patient's designated or other representatives.

e. Medical Research and Teaching

The primary purpose of procedures undertaken in our facility is the good of the patient. We recognise however that valuable medical or nursing research and teaching may require the involvement of patients or other persons in procedures whose immediate objective is not for the good of the person, but for the advancement of medical knowledge or the teaching of health care professionals.

In both research and teaching, the involvement of patients or other persons, even where the procedure may be therapeutic, must respect the person's autonomy. Any research therapeutic or non-therapeutic requires the specific informed consent of the patient or other person participating, together with the approval of the relevant DHB Ethics Committee.

f. Ethics Committee

It is the role of the Ethics Committee to advise on the development, refinement and application of this code of ethics. The Ethics Committee shall be made up of invited medical Specialists, lay-persons, legal representation and theology, and other persons who may be considered at any time appropriate to join the committee and its deliberations.

The Ethics Committee shall have a Chairman whose appointment shall be for a period of three years. The Committee may meet from time to time, or as required to consider issues relating to the Code of Ethics of MercyAscot.