

Policy

Subject: **Disclosure of personal information in relation to Fellows as contemplated in rule 15.2 of the Constitution**
Approval Date: April 2018, September 2020
Review Date: April 2024
Review By: Board of Directors
Number: 3/2018

1 Background

- (1) In this policy:
 - (a) **Board** means the directors of the College assembled as a board;
 - (b) **College** means The Royal College of Pathologists of Australasia (ACN 000 173 231);
 - (c) **Constitution** means the constitution of the College;
 - (d) **Fellow** means an ordinary Fellow of the College and a Faculty Fellow of the College, as defined in the Constitution; and
 - (e) **Fellowship** means the status of being an ordinary Fellow or a Faculty Fellow of the College.
- (2) Personal information about Fellows is managed and protected by the College in accordance with the requirements of the *Privacy Act 1988* (Cth) and, where applicable, the New Zealand *Privacy Act 2020*, and as set out in the College's Privacy Policy, a link to which can be found on the College's website. However, in line with international practice, the Medical Board of Australia and the Medical Council of New Zealand now increasingly expect certain information to be provided to them in order to assess risk to patients and others when there is a serious complaint or concern about a person. Similarly, employers are expected to check the currency of Fellowship claimed by an individual.
- (3) Rule 15.2 of the Constitution now allows for the following:

“The Company may disclose personal information relating to Fellows, that is obtained by the Company in the course of the Company's activities, to Competent Authorities, regulators, public authorities and professional bodies to enable those entities to perform their regulatory, supervisory and other functions relating to the medical profession. The Company may also disclose to any third party, information regarding whether or not an individual is, or has been, a Fellow of the Company.”
- (4) The College acknowledges that the disclosure of information relating to Fellows in the context described in the first sentence of rule 15.2 may be sensitive. The College takes this responsibility very seriously and has developed this policy to provide guidance to Fellows on the circumstances in which their personal information may be disclosed by the College.

2 Disclosure of personal information by the College

2.1 Mandatory reporting

- (1) The current mandatory reporting obligations under the Health Practitioner Regulation National Law are unlikely to apply to the College but, if applicable, the College will of course comply with any such mandatory obligations.
- (2) Unless the Board resolves otherwise, the College must follow the investigation procedure set out in paragraph 2.3 of this policy before making any such mandatory report.

2.2 Other complaints or information

- (1) Where the College becomes aware of a complaint or other information, that may involve a breach of any applicable laws or raise other concerns about the conduct of a Fellow that are not the subject of a mandatory reporting regime, the College may nevertheless consider notifying any relevant regulatory authorities or other relevant third parties of these matters.
- (2) Circumstances where the College may consider notifying any relevant regulatory authorities or other relevant third parties include:
 - (a) where there has been material non-compliance by a Fellow with College policies or regulations; and
 - (b) any known lack of recency of practice issues regarding a Fellow, where a Fellow recommences practice in circumstances that could create a concern in relation to patient safety.
- (3) In response to all complaints or other information referred to in this paragraph 2.2, the College must follow the investigation procedure set out in paragraph 2.3 of this policy.

2.3 Investigative procedure

- (1) Where an investigation is required in accordance with this policy, the Board must appoint a delegate to conduct a review and investigation of the relevant circumstances. A report will then be made to the Board for its consideration.
- (2) If, following a review of the report, the Board determines that disclosure of personal information relating to a Fellow may be justified, then the Board may in its discretion resolve:
 - (a) to promptly notify any relevant regulatory authorities or other third parties of this information; or
 - (b) to give the Fellow a written notice setting out the complaint or other information and advising that notification to relevant regulators and/or third parties is being considered, in which case:
 - (i) the Fellow will be given an opportunity to respond to the proposed disclosure; and
 - (ii) the Board will then determine whether disclosure is appropriate or instead some other action is appropriate such as specifying

remedial or other actions to be taken to address the concerns or issues identified in the investigation in which case the Fellow will be given reasonable time to undertake any such remedial action or otherwise address the relevant concerns or issues.

3 Responses to enquiries

3.1 Current Fellow of the College

- (1) From time to time the College receives enquiries from regulatory authorities, government bodies, employers, potential employers and other parties as to whether or not a particular person is currently a Fellow of the College.
- (2) If the person that is the subject of the enquiry is currently a Fellow of the College then the College will confirm this to the party making the enquiry. If the person is not currently a Fellow of the College, then the College will confirm to the party making the enquiry that the person is not currently a Fellow of the College.
- (3) The CEO, Deputy CEO or their delegate, or the Operations Manager of the Board of Education and Assessment, have been separately authorised by the Board to make such a response on behalf of the College.

4 Other matters

- (1) The Constitution provides for the disciplining of Fellows and even termination of Fellowship in certain limited circumstances. If a complaint or other information covered by this policy is regarded as sufficiently serious by the College, then this may be grounds for the College to consider whether to invoke the disciplinary procedure as outlined in the Constitution, which can result in termination of Fellowship. The review process regarding any decision to terminate a Fellowship is set out in College Regulation 8/1999.
- (2) If a Fellowship is terminated, then the College may notify the termination of Fellowship to regulators and other relevant third parties (including employers).