

Policy

Subject: **Procedure for Investigation of Allegations of Poor Professional Performance in Anatomical Pathology (Histopathology, Cytopathology and Haematology morphology)**

Approval Date: March 2001, July 2010, November 2013
Review Date: To be reviewed on each occasion utilised
Review By: BPPQ
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1. Background

The purpose of this paper is to delineate guidelines for investigation of allegations of poor professional performance in the practice of Anatomical Pathology (Histopathology and Cytopathology). The College would only use these guidelines if approached by a competent authority with an allegation of poor professional performance made. This will usually be the employing authority. Confidentiality is of the utmost importance in all stages of the Review.

The College would only act to institute the process outlined in these guidelines if:

1. Consent of all parties involved had been obtained
or
2. the College was asked to help with a review by a properly constituted regulatory authority such as a Medical Board
and
3. appropriate indemnity is provided for the College and Fellows involved in the review
and
4. appropriate reimbursement of expenses is provided by the organisation requesting the College to undertake the review.

2. Objectives

The primary purpose of the proposal set out in this paper is to delineate a process that objectively and without bias:

- identifies any deficiencies in professional practice that have or have the potential to affect patient care outcomes adversely
- ensures that actual or potential harm to patients is identified to enable subsequent mitigation and
- ensures procedural fairness for any person or persons whose professional competence has been called into question.

However, if this process identifies a situation that clearly demonstrates significant deficiencies in professional performance, further enquiry will be required to address other issues including:

- ascertaining how any such deficiencies may have arisen,
- identifying measures necessary to rectify any faults which have occurred to date and to prevent their recurrence.

Attaining all of these objectives is fundamentally a responsibility of the practice management but external expert professional advice in difficult situations is likely to be of assistance. This paper however deals only with the first of these sets of issues but sets out in some detail a number of steps to address the question of alleged poor professional performance.

At this time however it is not considered appropriate to propose a process to deal with the second set of questions until the facts of any case have been established by valid enquiry. However in that eventuality external independent professional advice may again be necessary to address the situation that has been disclosed.

3. General design of the review

It is acknowledged that the need to conduct a review may have been initiated by one or more specific alleged adverse events. Each of these requires adequate investigation. In addition these alleged adverse events may not constitute the entirety of any deficient practice and accordingly a more general audit will be necessary. However to ensure procedural fairness both investigation of specific events and audit of an individual's professional practice should be put in the context of that individual's work environment and in particular should compare performance with that of his or her peers.

The review will consist of 2 components:

1. A "targeted review" designed to examine all specific allegations of unsatisfactory performance. This should be capable of being completed in a relatively short period of time.
2. A "random audit" designed to determine whether there may be any other deficiencies which have not become apparent as a consequence of specific incident or complaints. This is likely to involve examination of a greater number of cases and accordingly will take longer to complete.

4. Definitions

"pathologist of record"	the pathologist who originally reported the case
"pathologist of review " or "reviewer "	one or more pathologists, who shall be appointed on the advice of the Board of Directors of the College, will review the material
"service director" or "managing partner"	the pathologist in over all professional charge of the practice
"department director"	a pathologist designated as in charge of the part of a pathology service concerned with a specific discipline eg. Anatomical Pathology
"management"	one or more persons representing the "proprietor" of the service

“slide(s)”	glass microscope slides on which tissue sections are mounted
“block(s)”	a paraffin block containing a piece of tissue from which sections are cut to prepare slides
“recut”	slides prepared from the block subsequently to those uses for the initial examination by the pathologist of record
“Coordinator”	The individual who will coordinate the report from the pathologists of review and assess the concordance or discordance between these reports of the pathologist of record. The Coordinator will be appointed on the advice of the Board of Directors of the College.

5. Process for conduct of the targeted review

1. Management is to determine a due date by which all cases about which unsatisfactory professional performance is alleged must be notified in writing to management.

For a case to be admissible it must identify as a minimum:

- the patient, by name or by other information such as a medical record number to allow the identity of the patient to be established beyond any doubt,
- the nature of the specimen
- the date the specimen was submitted for examination.

In addition, the person notifying the case should submit copies of any other relevant material including copies of any correspondence or second opinions. All of this material must be retained securely and in confidence by management.

2. Management will notify to the service director the names of the patient and details of the nature of the specimen and date of its collection which is the subject of review. The service director with assistance as required from the department director will have extracted from the practice files:
 - 2.1. all of the histology or cytology slides used for preparation of the original report by the pathologist of record,
 - 2.2. a copy or transcript of the original request submitted with the specimen,
 - 2.3. a description of the gross (naked eye) appearance of the specimen,
 - 2.4. details of any code so as to permit exact identification of the origins of each slide.

In addition, the service director and department director will select from the files slides and documentation as specified in 2.1 to 2.4 from at least two but no more than three cases which resemble each specimen which is the subject of enquiry in respect of:

- the nature of the tissue eg. skin, breast

- the type of specimen eg. Needle core, fine needle aspiration biopsy surgical pathology slide
- a similar pathological process eg. Malignant neoplasms, benign neoplasm, non-neoplastic process

which however has a pathologist of record different from the pathologist who is the subject of this performance review.

NOTE: in all cases the slides should be the originals used for diagnosis by the pathologist of record for the relevant case. If “recuts” are needed this should be advised.

3. All of the slides and documentation referred to in section 2 above is to be sent in turn to each of the pathologists of review. For convenience if there are two pathologists of review the material can be divided into two (2) ‘sets’ of equal size which the reviewers can exchange.

At this stage the reviewers should **NOT** be sent a copy of the report of pathologist of record and all material submitted should be censored in such a way as to remove any clues to his or her identity.

4. Each pathologist of review shall separately and independently of the other provide a microscopic report and opinion on all of the material and documentation submitted. The form and content of this report and opinion should, in general, resemble that normally produced by them when providing a second opinion on a case for review except that:
 - the original report will not be provided and
 - no blocks or slides will be available additional to those used by the pathologist of record.
5. On completion of their examination and report each pathologist of review shall send in confidence their reports to the Coordinator.
6. The Coordinator will then for each case assemble:
 - the full report of the pathologist of record but with the name of the individual concerned removed in all cases,
 - the full unedited reports of the pathologists of review.
7. The Coordinator will then review the documentation outlined in 6 above for adjudication.

In respect of each case the Coordinator should decide:

A - in relation to the diagnosis whether there is:

- a. concordance between the reviewer’s and the pathologist of record’s reports **OR**
- b. if there is a discordance between the reviewer’s reports either with or without concordance with the report of the pathologist of record **OR**
- c. concordance between the reviewer’s report but discordance with that of the pathologist of record.

If the outcome is as specified in A (a) proceed to step B,

If the outcome is as specified in A (b) record the outcome as “contentious” and then proceed to step B

If the outcome is specified as specified in A(c), proceed to determine if:

- d. the discordance indicates a discrepancy which would certainly affect patient management and outcome **OR**
- e. The disclosure is a misinterpretation or oversight with a potential to affect patient management and outcome **OR**
- f. the discordance is minor and unlikely to affect patient management and outcome.

B - Irrespective of the decision in respect of A above, the form and content of the report of the pathologist of record should be evaluated to determine whether it contained one or more of:

1. Significant errors of omission which would diminish its value for patient management **AND/OR**
 2. Deficiencies or presentation in the form of imprecise language, major typographical errors or a conclusion drawing inferences beyond what were reasonable from the material submitted.
8. The outcome of the adjudication will be advised to the Service Director and the pathologist of record whose cases are under review.
 9. The pathologist of record may provide a written response to the outcome of the adjudication within 5 working days of being provided with the report to the Service Director.
 10. The Service Director will convene a meeting, as a rule by teleconference, with the RCPA Coordinator and the pathologists of review and confirm the outcome of the adjudication as set out in section 7 – this relates to 7. on page 4.
 11. The Service Director will prepare a final report on this review setting out the outcome of the performance of the pathologist under review

Possible conclusions could include:

- no deficient performance has been identified,
 - some deficiencies were identified but these were of a minor nature and not significantly different from those of other practitioners in the practice,
 - some significant deficiencies with possible serious consequences were identified in the performance of the practitioner whose work was the subject of the review.
12. A copy of the report is submitted to the Coordinator for validation.
 13. The Service Director's report would be presented formally to the relevant people in the organisation.

6. Process for the conduct of a random review

1. The service director assisted by the department director as appropriate will select two separate periods from which a total of the order of say 50 consecutive cases will be selected for review. The periods chosen should be such that at least one third but no more than half of the cases under review will have as the pathologist of record the practitioner whose competence has been called into question.
2. Except for the difference in sample selection the process of the review will follow the same procedure as that outlined in the previous section for the targeted review. In the

event that the outcome renders inconclusive one or more additional groups of 50 consecutive cases may be examined by the same process in a number sufficient to achieve a consecutive outcome.

Conclusion

The process proposed for these performance reviews may appear complex but they are designed to achieve:

- adequate separation of powers and responsibilities among those responsible for the review,
- procedural fairness in that the performance of the person in question is evaluated “blind” by reviewers against the background of the performance of his/her peers,
- a conclusive answer about whether clearly deficient professional performance has been demonstrated.

They will not however determine to any major extent:

- how the identified deficiencies have arisen and
- will not necessarily delineate what measures are needed to rectify identified faults and prevent their recurrence.

In the first instance these consequential issues are for the attention of management but assistance from or involvement of external agencies such as the College or Medical Board may be needed for their final resolution. Furthermore the process required will be quite different from those needed to establish the fact of substandard performance.