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The Royal Australasian College of Surgeons and the Australian Society of Plastic Surgeons collaborate in the delivery of the Surgical Education and Training Program in Plastic and Reconstructive Surgery.

# Training Regulation: Trainee Misconduct

## 1. PURPOSE AND SCOPE

This document outlines the Australian Board of Plastic and Reconstructive Surgery (**"the Board"**) regulations and process for Misconduct, including investigating allegations, to the extent that RACS has jurisdiction to do so, of trainee misconduct arising during the Plastic and Reconstructive Surgery (**"PRS"**) Surgical Education and Training (**"SET"**) program.

## 2. OVERVIEW

Trainees on a pathway to Fellowship are expected to conduct themselves with honesty and integrity and in accordance with their Training Agreement. This regulation defines circumstances for a trainee that may be regarded as misconduct, and how allegations of misconduct are managed.

## 3. DEFINITION OF MISCONDUCT

### 3.1. Examples of misconduct include but are not limited to:

- Theft, fraud or misappropriation of funds;
- Falsification of training records, patient documentation or patient treatment;
- Being under the influence of alcohol or illegal drugs while training or fulfilling requirements of the training program;
- Abusive, violent or obscene behaviour;
- Discrimination, bullying or harassment (including sexual harassment);
- Disobedience of a reasonable instruction given by a supervisor;
- Repeated refusal to carry out instruction that is consistent with the training agreement;
- Abandonment of employment or training post.
- Repetitive acts of misconduct for which the trainee has been counseled.
- Malicious damage to RACS or ASPS property or reputation.

### 3.2. Some misconduct is notifiable conduct that is subject to mandatory reporting laws.

- Notifiable conduct means the trainee has:
- practised the trainee's profession while intoxicated by alcohol or drugs;

- engaged in sexual misconduct in connection with the practice of the trainee's profession; or
- placed the public at risk of substantial harm in the trainee's practice of the profession because the trainee has an impairment; or
- placed the public at risk of harm because the trainee has practised the profession in a way that constitutes a significant departure from accepted professional standards

## **4. INITIAL INVESTIGATION OF TRAINEE MISCONDUCT**

### **4.1. Process for Investigation of Misconduct**

The Board is responsible for conducting an initial investigation of allegations of misconduct by a trainee, and where appropriate, for applying penalties for substantiated misconduct, following initial verification and Official Investigation of the allegation. Such allegations of misconduct will be investigated promptly, objectively and fairly, in a timely manner.

### **4.2. Documentation and notification of alleged misconduct**

Alleged incident(s) of misconduct must be documented by the Surgical Supervisor and the Regional Training Subcommittee Chair advised as soon as possible.

### **4.3. Verification of alleged misconduct**

Within 10 working days of the Regional Training Subcommittee Chair being notified of alleged incident(s) of misconduct, they will make initial inquiries to determine whether the allegation can be verified.

If the Regional Training Subcommittee Chair is unable to verify their allegation(s) no further action will be taken.

If the allegation is verified, the Regional Training Subcommittee Chair will inform the Board. The Board can only commence an investigation or any disciplinary process based on allegations that have been documented and verified.

### **4.4. Notification to the Board and Trainee**

4.3.1 Within 10 working days of the Regional Training Subcommittee Chair verifying the allegation, the Board will be notified. The trainee will also be notified that an allegation(s) of misconduct has been made against them, including any documentation provided regarding the allegation.

4.3.2 The Board will nominate a PRS Fellow to conduct an initial review of the case.

## **5. OFFICIAL INVESTIGATION**

Where the Board is informed of an allegation of misconduct, an Official Investigation will be carried out. The duration of the Official Investigation will be 30 working days.

### **5.1. Conduct of Investigation**

In consultation with RACS In-House Counsel, the Board will nominate a panel of three (3) PRS Fellows (with no prior personal or professional involvement with the trainee), who will be different to the Fellow or fellows involved in the initial inquiries of the case. The panel of investigators will conduct the official investigation supported by the ASPS CEO or a senior ASPS staff member nominated by the CEO.

The investigators must review all pertinent documentation, and interview witnesses to the alleged misconduct. They must also interview the trainee against whom the allegation of misconduct has been made. Investigators will liaise with RACS Counsel and ASPS Counsel on matters of legal compliance.

A draft report of findings will be prepared by investigators, with recommendations to Board. The Trainee will be provided with a copy of the draft report and is requested to provide a response within 10 working days.

The Trainee's response will be considered and a final report will be prepared by the investigators, including the recommendations made to the Board. This will mark the conclusion of the investigation and the trainee will be issued with a copy of the final report.

#### **5.1.1. Board meeting following conclusion of official investigation**

Within 20 working days of conclusion of official investigation, a Board meeting (either in person, by teleconference or by videoconference) will take place at a time convenient to all parties. The trainee must be provided with a minimum of 10 working days' notice of the meeting.

Trainee can present their case to the Board in person or in writing. Where the trainee presents in person, their support person (excluding a practicing lawyer) may attend.

The Board may accept, modify or reject the recommendations from the investigators.

### **5.2. Penalties For Misconduct**

Penalties may include but are not limited to:

**5.2.1.** Formal censure, warning or counseling;

**5.2.2.** Delaying progression to the next stage of training for up to one year;

**5.2.3.** Suspending the trainee for a period of up to one year;

**5.2.4.** Prohibiting the trainee from sitting the Fellowship Examination for a period of up to one year; and/or

**5.2.5.** Dismissal from the training program (refer to Training Regulation: Dismissal from SET).

## **6 RECONSIDERATION, REVIEW AND APPEAL**

Trainees have options available to challenge a decision about their training. Challenges are governed by the RACS Regulation “Reconsideration Review and Appeal”, available to download from [www.surgeons.org](http://www.surgeons.org).

## **7 ASSOCIATED DOCUMENTS**

RACS Regulation: Dismissal from Surgical Training (ETA-SET-007)

RACS Regulation: SET Misconduct (ETA-SET-026)

RACS Position Paper: Natural Justice – Information for Decision Makers (ETA-SET-027)

RACS Regulation: Reconsideration, Review and Appeal (ETA-SET-061)

RACS Regulation: Former Trainees Seeking to Reapply to Surgical Training (ETA-SET-003)

Training Regulation: Dismissal from SET

Training Regulation: Variations to Training