HEALTH SERVICES ACT 1997

ORDER AS TO MODEL BY-LAWS

Pursuant to section 39 and 60 of the Health Services Act 1997 I, DR MARY FOLEY, Director-General of the Ministry of Health, do by this order set out the terms of Model By-laws to be used by local health districts constituted under section 17 of the Health Services Act and speciality District statutory health corporations established under Division 3 of Chapter 4 of the Health Services Act 1997.

Signed at Sydney this 23rd day of December 2011.

Dr Mary Foley
Director-General

LOCAL HEALTH DISTRICTS DISTRICT BY-LAWS –MODEL BY-LAWS

Part 1 - Preliminary

1. Name of the By-law

This By-law may be cited as the [*name of local health district*] By-law.

2. Definitions

Expressions used in this By-law are defined in the Dictionary at the end of the By-law.

Part 2 - By-laws information

3. Availability of By-laws

The Chief Executive is to ensure that copies of the current By-laws for the local health district are available to staff of the local health district and the public.

4. Making and Amendment of By-laws

(1) The Board is to approve the making of or amendment to the by-laws for the local health district by the Chief Executive.

(2) Any motion to make, amend, replace or rescind a by-law must be considered at a meeting of the Board.

(3) Written notice of the motion to make, amend, replace or rescind a by-law must be provided to each member of the Board at least 21 calendar days before the date of the meeting.

(4) The Board is to refer any proposed amendment of Parts 5 –9 of the By-laws to the medical staff executive council (or in the case of a statutory health corporation, the medical staff council) and the local health district clinical council;

Part 3 - The seal

5. The seal

(1) The Chief Executive is to ensure the safe custody of the seal of the local health district.

(2) The seal of the local health district is to be affixed only to documents on behalf of the local health district when the chief executive signs such documents and the signature and sealing of the document are formally witnessed.

Part 4 – Conduct of meetings

6. Procedure – Board meetings

Procedures for meetings of Boards are set out in the Health Services Regulation 2008.

7. Procedure – committee, sub-committee etc meetings

(1) Any meeting, including a special meeting, of any committee, sub-committee or council provided for under these by-laws may decide to allow any of its members or other invitees to participate or vote in the meeting from a location other than the place where the meeting is being held.

(2) Participation from a location other than where the meeting is being held may be by telephone, facsimile, video or other electronic medium as is appropriate to the circumstances or the business being transacted.

(3) A member of a committee, sub-committee or council participating from a remote location shall be regarded as being present at the meeting for the purposes of the calculation of a quorum or any other similar matter required under these by-laws.

(4) The committee, sub-committee or council may determine a protocol or procedure for remote participation of members or other persons in its meetings.

(5) Where the Chair of the Medical Staff Executive Council (or in the case of a statutory health corporation, the medical staff council) attends or is nominated to attend a Committee or Council established under this By-law in his or her ex officio status, that Chair, may, if not available, nominate an alternative member to attend in his or her place.

8. Quorum

The quorum for any meeting including a special meeting, of any committee, sub-committee or council provided for under these by-laws is a majority of the appointed number of the committee members. This clause does not apply to meetings of medical staff councils and medical staff executive councils under Part 6.1 of these By-laws.

9. Attendance

Any committee, sub-committee or council provided for under these by-laws may invite any person to attend one of its meetings.

10. Voting

(1) Only the members of a committee, sub-committee or council provided for under these by-laws may vote at a meeting of the committee, sub-committee or council.

(2) A decision supported by a majority of the votes cast at a meeting of a committee, sub-committee or council at which a quorum is present is to be the decision of the committee, sub-committee or council.

11. Minutes

The member presiding at a meeting of a committee, sub-committee or council provided for under these by-laws is to ensure that minutes are kept of all meetings of the committee, sub-committee or council.

Part 5 – Committees of the Local Health District

12. Committees

The Board is to establish the following committees to provide advice or other assistance to enable the Local Health District perform its functions under the Act. Those committees are to include:

(a) audit and risk management;
(b) finance and performance;
(c) health care quality; and
(d) such other committees as the Board determines.

13. Audit and Risk Management Committee

The Audit and Risk Management Committee of the LHN is to be appointed in accordance with such policies relating to internal audit within the public sector as may be issued from time to time by the NSW Treasury.

14. Committee chairpersons and secretaries

(1) The Chief Executive is to nominate, in consultation with the Board, a chairperson of each committee established under this Part.

(2) The Chief Executive is to appoint a person to act as the secretary of each committee. The same person may act as secretary for more than one committee.

15. Functions of committees

(1) A committee is to provide advice or other assistance on issues as requested by the Board or Chief Executive.

(2) These issues may include:
   (a) efficient and economic operation of:
      i. the local health district;
      ii. industrial relations;

iii. human resources; and
iv. financial and asset management;

(b) adequate standards of patient care and services;
(c) health needs of the community serviced by the local health district;
(d) strategies to ensure an appropriate balance in the provision and use of resources for health protection, health promotion, ethics and medical research, health education and treatment services;
(e) effective communication with other health services and health service providers;
(f) adequate arrangements for effective communication and cooperation between medical practitioners, including general practitioners, providing medical services within the geographic area of the local health district.

16. Committee membership

(1) The Chairperson of the Audit and Risk Committee is not to be the chairperson of the finance committee (or other similar committee).

(2) The Audit and Risk Committee is to comprise of at least three members, and no more than five, the majority who are not to be members of the Board, employees of or contracted to provide services to the local health district.

(3) The Chief Executive is to be a member of the Audit and Risk Committee but must not be chairperson and the Board may appoint such other persons as they consider appropriate.

(4) The Chief Executive is to appoint at least one representative of the executive staff of the local health district to each committee (other than the Audit and Risk Committee).

(5) The Board is to appoint such clinician representation as it considers appropriate to each committee (other than the finance and audit committees).

(6) Where there is to be a clinical representative on a committee, the Board is to consult with the Medical Staff Executive Council or any relevant Medical Staff Council, or the Local Health District Clinical Council as applicable on the proposed appointee.

(7) Subject to the matters set out in this clause the Board may appoint such committee members as they think fit, such members may also include a member of the Board.

(8) The Board may remove any committee member as it thinks fit, subject to any corporate governance policy issued by the Ministry from time to time.

17. Term of office

Any person nominated to a committee holds office for such period as the Board may determine, subject to any corporate governance policy issued by the Ministry from time to time.

18. Meetings

A committee is to meet as specified by the Board, subject to any corporate governance policy issued by the Ministry from time to time.

19. Notice of meetings and special meetings

(1) The chairperson of a committee, or a person authorised by the chairperson to do so, is to give written notice of a meeting to each committee member at least 7 days prior to the meeting.

(2) When the chairperson of a committee considers that a matter is of such urgency that a special meeting of a committee should be held within a period of not less than 48 hours of such a request, the chairperson may request the Chief Executive to give written approval to the conduct of such a special meeting. The written approval of the Chief Executive may determine, subject to this clause and the Regulation, the business and conduct of such a special meeting.

(3) A copy of the Chief Executive's approval under 19(2) is to be provided to the members of the Board.

(4) A special meeting shall be held, if approved, not later than seven days after receipt by the Chief Executive of such a request.

(5) The chairperson of a committee is to ensure that at least 24 hours' notice is given of a special meeting to each member and each person invited to attend the meeting.

(6) Notice of a special meeting is to specify the business to be considered at that meeting.

(7) Only business specified in the notice of a special meeting is to be considered at the special meeting.

(8) Each provision of this clause shall be subject to any corporate governance policy issued by the Ministry from time to time.

Part 6 – Medical and Clinical Staff Councils

20. Structures for Clinician input into the District

The Local Health District is to establish the following structures and forums to provide input for medical, nursing and allied health staff:

(1) Medical Staff Councils and Medical Staff Executive Councils as set out in Part 6.1 ;

(2) Hospital Clinical Councils and Joint Hospital Clinical Councils as set out in Part 6.2;

(3) A Local Health District Clinical Council as set out in Part 8.

21. Objectives of Medical and Clinical Council Structures

The objectives of the structures for clinician input are to:

(1) facilitate effective patient care and services through a co-operative approach to the management and efficient operation of public hospitals between hospital executive management, clinical staff (including medical practitioners, nurses, midwives and allied health practitioners) and clinical support staff.

(2) provide a forum for information sharing and to support feedback to staff on issues affecting the administration of the hospital(s) through the members of the councils.

Part 6.1 Medical Staff Councils and Medical Staff Executive Councils

22. Definition

In this Part, *member* means a member of a medical staff council or a member of a medical staff executive council.

23. Establishment of medical staff councils

(1) The Chief Executive is to establish either:

(a) a medical staff council (in the case of a local health district that is a statutory health corporation); or

(b) a medical staff executive council and at least two medical staff councils (in all other cases).

(2) Medical staff councils are to be composed of all visiting practitioners, staff specialists, career medical officers and dentists appointed to the local health district or the hospital or hospitals the council represents.

(3) Sufficient medical staff councils should be established to ensure that all visiting practitioners, staff specialists, career medical officers and dentists of the local health district are members.

Note: For medical staff councils with five members or less refer to the special provisions under clause 30

24. Medical Staff Executive Council

(1) A Medical Staff Executive Council shall be composed of representatives of the Medical Staff Councils for the hospitals under the control of the local health district.

(2) Subject to subclause (4), each Medical Staff Council shall nominate as its representative or representatives on the Medical Staff Executive Council -

(a) if the Medical Staff Council has 50 members or less, one member of that council, provided that such a member may by agreement also act as the proxy representative for one or more other councils with less than 50 members; or

(b) if the Medical Staff Council has more than 50 members, one member of that council for every 50 members or part thereof; or

(c) if the medical staff council has more than 50 members, and such an arrangement has been mutually agreed between the Medical Staff Council and the Chief Executive, by the chairperson and one other representative of the council or their nominated alternate.

(3) For the purposes of subclause (2), the number of members of a Medical Staff Council shall be determined as at 1 January in the relevant year.

(4) The number of representatives from any single Medical Staff Council on a Medical Staff Executive Council shall not exceed 50% of the total number of members of the Medical Staff Executive Council.

25. Functions of Councils

The medical staff executive council or the medical staff council (if there is only one council for the local health district) is to:

(a) provide advice to the Chief Executive and Board on medical matters;
(b) nominate, every 3 years from the date of issuing of this By-law, a short list of up to 5 medical practitioners to be available to the Minister for Health when considering the appointment of a member or members of the Board.

26. Voting at meetings of councils

Any matter put to the vote at any meeting of a council is to be decided by a show of hands, or by secret ballot if requested by a member present at that meeting.

27. Office bearers of councils

(1) A council is to elect a chairperson of the council and other office bearers it considers necessary from among the members.

(2) Such elections are to be held at an ordinary meeting of a council once each calendar year.

(3) An office bearer (including the chairperson) is to hold office until vacation of the office or until the next election, whichever occurs first.

(4) An office bearer (including the chairperson) shall be eligible for re-election to the same office, provided that no more than three (3) consecutive terms are served, unless there are special circumstances and a further consecutive term has been approved by the Chief Executive

(5) If an office becomes vacant between elections, the vacancy is to be filled by an election at a special meeting of the council. The special meeting is to be held within 30 days of the vacancy occurring.

28. Ordinary meetings of councils

(1) Ordinary meetings of a council are to be held at least twice a year, and at such additional times and places as determined by the council.

(2) The chairperson of a council, or other office bearer of the council authorised by the chairperson to do so, is to provide written notice to each member, at least 7 days prior to an ordinary meeting.

(3) The medical administrator (however designated) of the local health district is to be invited to attend all meetings of the council (unless already a member). However the council may exclude the medical administrator from any meeting, or part of a meeting, where the business under consideration relates to the conduct or performance of the medical administrator in that position.

(4) A council may invite any other person, including any staff member of the local health district, to attend any of its meetings.

(5) The council may exclude any invitee from any meeting, or part of a meeting.

29. Special meetings of councils

(1) A special meeting of a council may be called by the chairperson of the council.

(2) A special meeting of a council is to be called by the chairperson within forty-eight hours after the chairperson of the council receives:

(a) for a council with 6 to 20 members, a written request signed by a majority of the members of the council;

(b) for a council with more than 20 members, a written request signed by at least 11 members of the council.

(3) The chairperson of a council is to give at least 24 hours notice of a special meeting of the council to all members.

(4) Notice of a special meeting of a council is to specify the business to be considered at the meeting.

(5) Only business specified in the notice is to be considered at a meeting.

30. Quorum

The quorum for a meeting of a council is:

(a) for a medical staff executive council, a majority of the members;

(b) for a medical staff council with 6 to 20 members, a majority of the members of the council;

(c) for a medical staff council with more than 20 members, one tenth of the members or 11 members of the council, whichever is the greater number.

31. Smaller medical staff councils

For a council with five members or less:

(a) clauses 11 and 25-27 of this By-law do not apply;

(b) the Chief Executive, or a person authorised on his or her behalf, is to call a meeting of the council not later than seven days after receiving a written request for such a meeting from a member of the council;

(c) the Chief Executive, or a person authorised on his or her behalf, is to give written notice of a meeting of the council to all members and to the medical administrator (however designated) of the local health district;

(d) the medical administrator (however designated) of the local health district is to be invited to attend all duly convened meetings of the council. However the council may exclude the medical administrator from any meeting, or part of a meeting, where the business under consideration relates to the conduct or performance of the medical administrator in that position;

(e) the council is to ensure that minutes of a meeting of the council are kept;

(f) the quorum for a meeting of the council is a majority of its members.

<u>Part 6.2– Hospital Clinical Councils</u>

32. Objective of Hospital Clinical Council

(1) Hospital clinical councils provide a structure for consultation with, and involvement of, clinical staff in management decisions impacting public hospitals and related community services.

(2) A hospital clinical council is a key leadership group for its public hospital or hospitals and is designed to participate with the management team in ensuring that the hospital/s deliver high quality health and related services for its/ their patients.

33. Definitions

In this Part:

clinical staff means a member of the NSW Health Service working in a medical, dental, nursing (including enrolled nurses, midwives and assistants in nursing) or allied health clinical position in connection with the local health district, and medical and dental practitioners appointed as visiting practitioners under the Health Services Act 1997;

general manager means the person responsible to the Chief Executive for the operation or management of a public hospital or hospitals;

hospital clinical council includes (except in clause 34(2) a joint hospital clinical council;

member means a member (including an ex officio member) of a hospital clinical council.

34. Establishment of hospital clinical councils

(1) Hospital clinical councils are to be established within the local health district to provide management input for clinical staff of public hospitals.

(2) The Chief Executive is to establish a hospital clinical council for each public hospital in the local health district, and where appropriate that council may be a joint hospital clinical council covering more than one hospital.

(3) In determining whether to establish individual hospital clinical councils or joint hospital clinical councils under subclause (2), the Chief Executive is to have regard to:

(a) the size and budget of the public hospitals within the local health district;

(b) the number of clinical staff working at each public hospital within the local health district;

(c) whether a joint structure is the most practicable alternative for smaller hospitals;

(d) whether the relevant hospitals are under a common executive management structure.

35. Membership of hospital clinical councils

(1) The following members are ex officio members of a hospital clinical council:

(a) the general manager (however called) of the hospital or hospitals (who shall be the Chairperson);

(b) the executive medical director (however called) for the hospital or hospitals;

(c) the director of nursing and midwifery for the hospital or hospitals;

(d) the lead allied health manager (however called) for the hospital or hospitals;

(e) the principal financial officer (however called) for the hospital or hospitals.

(2) The following senior clinical staff of the hospital may be appointed as members of a hospital clinical council, provided that at least one person from each category is appointed:

(a) as applicable, clinical divisional heads and program managers ex officio (however called) for the hospital;

(b) the chair of the relevant medical staff council or councils ex officio as a representative of the medical staff council;

(c) such other clinical staff as the Chief Executive determines to enable the council to effectively undertake its functions having regard to the range, size, specialities and services provided by the hospital.

(3) Where a Joint Hospital Clinical Council is established under clause 34(2), the Council must include at least one senior clinical staff member (from either medicine, nursing or allied health) from each public hospital covered by the joint council.

(4) All hospital clinical councils (including joint hospital councils) must also include as a member:

(a) a medical practitioner;

(b) a nurse (who may be either a registered nurse, a registered midwife, an enrolled nurse or an assistant in nursing); and

(c) an allied health professional.

Selected by his or her peers in accordance with Part 7 of this By-law;

(5) Each hospital clinical council is to consist of a minimum of 11 members.

(6) The Council may elect a clinical co-chairperson for a hospital clinical who will be the presiding officer in the absence of the chairperson, and:

(a) Such elections are to be held at an ordinary meeting of a Council once each calendar year.
(b) A clinical co-chair is to hold office until vacation of the office or until the next election, whichever occurs first.
(c) A clinical co-chair shall be eligible for re-election provided that no more than three (3) consecutive terms are served, unless these are special circumstances and further consecutive term has been approved by the Board.

(7) Where a member of the council is unable to attend a particular meeting of the council, that member may nominate an alternate member to attend in their place.

(8) Subject to Clause (9), the term of hospital clinical council members is as follows:

(a) For persons appointed ex officio under Clause 35(1) or (2), for the term they hold that office;

(b) For persons appointed under Clause 35(2)(c) for the term appointed by the Chief Executive;

(c) For persons appointed under Clause 35(4), for the period until the formal declaration of the results of the next peer selection process in accordance with Part 7.

(9) A member of a hospital clinical council ceases to be a member if:

(a) he or she ceases to be a member of the clinical staff working at the hospital;
(b) he or she is removed in accordance with any appropriate governance policy issued by the Ministry.

36. Functions of hospital clinical councils

A hospital clinical council is to exercise the following functions in respect of its hospital/s:

(1) provide leadership of the hospital/s by providing advice and recommendations and participating in management decisions the objective of which is to ensure:

(a) the achievement of the benchmarks and targets set out in the performance agreement between the Director-General and the local health district as they relate to the hospital/s;

(b) the implementation of effective quality and safety programs and the achievement of key quality performance indicators by departments and units within the hospital/s;

(c) the implementation of models of care and evidence based clinical standards developed at a national and state level;

(d) the fostering of innovative solutions at a hospital level to improve the efficiency and effectiveness of the hospital/s;

(e) effective linkages between hospital clinical staff and clinician districts within the local health districts;

(f) effective operational performance, and achievement of key operational performance indicators by departments and units, within the hospital/s;

(g) effective management of the budget of departments and units within the hospital/s subject to conditions and directions under law or Government policy, or established by the Local Health district;

(h) achievement of key financial performance indicators by department and unit managers;

(i) the appropriate linkages between hospital services and other services provided within the local health district and appropriate linkages with external local clinicians, including general practitioners; and

(j) effective communication of key decisions with staff of the hospital/s;

(2) provide advice on resource allocation including on the exercise of delegations for recruitment and expenditure the objective of which is to ensure effective and efficient utilisation of resources within the hospital/s, subject to conditions and directions established by law, Government policy or the Local Health district;

(3) provide advice the objective of which is to ensure the implementation of strategies to effectively address any non-achievement of performance targets or other remedial action required within the hospital/s;

(4) advise the Chief Executive and Board on planning requirements for services within the hospital/s;

(5) assist in ensuring the effective implementation of Government policy and decisions of the Local Health district within the hospital/s;

(6) provide reports on the council's activities and decisions to the Chief Executive and the Board each month through dissemination of the minutes of meetings of the council, or provide such reports with the frequency and in the manner determined by the Local Health District.

(7) in this clause 'hospital/s' also includes community services related to services at the hospitals.

37. Information to be made available to councils

The hospital general manager is to ensure the council is provided with such information, including financial and operational performance reports, as is necessary to enable it to properly undertake its functions.

38. Voting at meetings of councils

Any matter put to the vote at any meeting of a council is to be decided by a show of hands, or by secret ballot if requested by a member present at that meeting.

39. Meetings of councils

(1) Hospital clinical councils will meet at least monthly.

(2) Meetings of a council are to be held at times and places determined by the council.

(3) The Chairperson or presiding officer of a council, is to ensure written notice is provided to each member, at least 7 days prior to an ordinary meeting.

(4) A council may invite such executive staff or other staff or other persons to attend all or part of the council's meetings.

40. Special meetings of councils

(1) Where the chairperson of a hospital clinical council considers that a matter is of such urgency that a special meeting of the council should be held within 48 hours, the chairperson may request the Chief Executive to give written approval to the conduct of a special meeting.

(2) A copy of the Chief Executive's approval under clause 40(1) is to be provided to members of the Board.

(3) The written approval of the Chief Executive may determine, subject to this clause and these by-laws, the business and conduct of such a special meeting.

(4) Notice of the special meeting is to specify the business to be considered at the meeting.

(5) The chairperson is to ensure that at least 24 hours notice is given of a special meeting to each member and each person invited to attend the meeting.

(6) Only business specified in the notice of a special meeting is to be considered at the special meeting.

(7) The special meeting shall be held, if approved, not later than seven days after receipt by the Chief Executive of a request under subclause (1).

Part 7 – peer selection processes

41. Definition

In this Part
"clinical council" means a hospital clinical councils or joint hospital clinical council established under clause 34(2).

"clinical staff" means a member of the NSW Health Service working in connection with the local health district:

(a) in a nursing (including enrolled nurses, midwives and assistants in nursing) clinical position;
(b) in an allied health clinical position, including dental practitioners who are appointed to work in a clinical position or as visiting practitioners under the Health Services Act 1997;
(c) in a junior medical officer position.

"junior medical officer position" means an intern, registrar, resident or senior registrar as defined by the Public Hospitals Medical Officers Award.

42. Staff eligible to participate in selection process

(1) Clinical staff will be eligible to participate in the selection process for their professional grouping as follows:
   (a) Clinical staff working as junior medical officers will be eligible to participate in the selection of the medical staff peer;
   (b) Clinical staff working as registered nurses, midwives, enrolled nurses or assistants nursing will be eligible to participate in the selection of the nursing/midwifery staff peer;
   (c) Clinical staff working as allied health professionals (including dental officers and visiting dental officers) will be eligible to participate in the selection of the allied health staff peer;

(2) A clinical staff member can only participate in the selection process for:
   (a) one professional grouping; and
   (b) one hospital clinical council

   in any one selection process , even if otherwise eligible to participate in more than one.

43. Nominations

(1) The Chief Executive is to issue a notice calling for nominations from clinical staff for each professional grouping. The notice will indicate:
   (a) The time for which the call for nominations remains open, (to be at least 14 days from the date of issue of the notice or such later date as is identified);
   (b) the closing date for receipt of nominations.

(2) Clinical staff can nominate once and in only one professional grouping in any one selection process;

(3) Clinical staff who are appointed as members of the Clinical Council under Clause 35(1) or (2) are not eligible to nominate;

(4) Nominations can only be made by the clinical staff member seeking selection. Nominations made by other staff will not be accepted;

(5) Nominations must be received by close of business on the date given in the Notice under clause 43(1) and include the nominee's name and the professional grouping within which they are nominating;

(6) Once a nomination is received it may not be withdrawn unless the person ceases to be eligible to participate in the peer selection process;

(7) The Director General may issue procedures for the calling and making of nominations.

44. Selection Process

(1) Where more than one nomination is received for a professional grouping for a Clinical Council, a peer selection process will be undertaken in accordance with clauses 44(2) and (3).

(2) The process for selecting peer members from the nominees shall be as approved by the Director General from time to time, but must have the following features:

a. Be an auditable process that includes privacy protection for staff who participate;
b. be readily accessible to all clinical staff;
c. be open for a period of at least 14 days;
d. include timely feedback to staff on the outcome of the selection process
e. set out a process for the formal declaration of the result of the selection process;
f. provide a mechanism for appeal if the outcome of the selection process is contested.

(3) Clinical staff will only be eligible to register support for one nominee in one professional grouping.

(4) Where only one nomination is received for a professional grouping for a Clinical Council, that nominee is to be appointed to the Clinical Council as the peer selected member for that professional grouping.

45. Results of Process – Appointment to Clinical Council

(1) The nominee receiving the highest number of peer registrations from each professional grouping will be appointed a peer selected member of the relevant clinical council for the relevant professional grouping.

(2) In the event that two or more nominees receive the equal highest number of registrations, the relevant clinical council is to determine a process to settle which of the nominees should be selected for the Clinical Council..

(3) If no staff member nominates for peer selection or no registrations of selection are made the peer member for the relevant clinical staff grouping is to be selected by the clinical council.

46. Result – Board

The nominated person will, subject to their consent, be eligible to have their name put forward for inclusion on an eligibility list to be available to the Minister for Health when considering the appointment of members to the Board, such list to remain current until the next selection process.

In this clause “nominated person” means:

(a) The nominee receiving the highest number of peer registrations in each professional grouping;
(b) In the event that two or more nominees receive the equal highest number of registrations in a professional grouping, each of those nominees;
(c) If only one staff member nominates for a professional grouping, that nominee;
(d) If no staff member nominate for peer selection or no registrations of selection are made, the person selected by the Clinical Council under clause 45(3)

47. Frequency

(1) A selection process is to be undertaken for each Clinical Council at least once every three years, with such period to run on and from the date on which nominations were issued for the previous peer selection process.

(2) If a peer selected member ceases to be a member of the clinical council during a term for any reason (eg ceases to be a member of the clinical staff of the facility) the position shall be filled for the remainder of the period of the appointment by a person selected by the clinical council.

Part 8 – Local Health District Clinical Council

48. Establishment

The Chief Executive will establish a Local Health District Clinical Council (in this Part called the "District Clinical Council") to provide the Board and the Chief Executive with advice on clinical matters affecting the District.

49. Membership of Local Health District Clinical Councils

(1) The membership of the District Clinical Council is to be composed of:

(a) Chief Executive of the District and such other clinical managers and clinical stream leaders as the Board considers appropriate;

(b) The Chair of the Medical Staff Executive Council or the Medical Council (in the case of a local health district that is a statutory health corporation), and such other members of that Council as the Board considers appropriate;

(c) At least one clinical member selected from the hospital clinical council(s) or joint clinical council(s) for the district and such other clinical representatives as the Board considers appropriate;

(d) such other persons as the Board determines to enable the council to effectively undertake its functions having regard to the range, size, specialities and services provided by the District.

(2) The District Clinical Council must include at least one senior clinical staff member from each of medicine, nursing and allied health.

(3) The District Clinical Council is to consist of a minimum of 9 members.

(4) The Board will appoint a chair person and may also appoint a co-chairperson or deputy chairperson for the District Clinical Council

(5) Where a member of the council is unable to attend a particular meeting of the council, that member may nominate an alternate member to attend in their place.

(6) A member of a District Clinical Council ceases to be a member if:

(a) he or she is appointed as a clinical staff member and ceases to be a clinical staff member or member of the NSW Health Service working at the hospital;

(b) he or she is removed in accordance with any appropriate governance policy issued by the Director General.

50. Functions of the Local Health District Clinical Councils

(1) The District Council is to provide the Board and the Chief Executive with advice on clinical matters affecting the local health district, including on:

(a) improving quality and safety in the hospitals within the local health district;

(b) planning on the most efficient allocation of clinical services within the local health district;
(c) translating national best practice into local delivery of services;
(d) developing innovative solutions that best address the needs of the local communities;
(e) such other related matters as the Board or Chief Executive may seek advice on from time to time.

(2) The District Clinical Council will provide reports on the council's activities to the Chief Executive and the Board each month through dissemination of the minutes of meetings of the council, or provide such reports with the frequency and in the manner determined by the Local Health District.

51. Information

The Chief Executive is to ensure the District Clinical Council is provided with such information, including financial and operational performance reports, as is necessary to enable it to properly undertake its functions.

52. Voting at meetings

Any matter put to the vote at any meeting of a council is to be decided by a show of hands, or by secret ballot if requested by a member present at that meeting.

53. Meetings

(1) District Clinical Councils will meet monthly.

(2) Meetings are to be held at times and places determined by the council.

(3) The Chairperson or presiding officer of a council, is to ensure written notice is provided to each member, at least 7 days prior to an ordinary meeting.

(4) A District Clinical Council may invite such executive staff or other staff or other persons to attend all or part of the council's meetings.

54. Special meetings

(1) Where the chairperson of a the District Clinical Council considers that a matter is of such urgency that a special meeting of the council should be held within 48 hours, the chairperson may request the Chief Executive to give written approval to the conduct of a special meeting.

(2) A copy of the Chief Executive's approval under clause 53(1) is to be provided to members of the Board.

(3) The written approval of the Chief Executive may determine, subject to this clause and these by-laws, the business and conduct of such a special meeting.

(4) Notice of the special meeting is to specify the business to be considered at the meeting.

(5) The chairperson is to ensure that at least 24 hours notice is given of a special meeting to each member and each person invited to attend the meeting.

(6) Only business specified in the notice of a special meeting is to be considered at the special meeting.

(7) The special meeting shall be held, if approved, not later than seven days after receipt by the Chief Executive of a request under subclause (1).

54A. Clinical Council may be appointed as Lead Clinician Group

The District Clinical Council may, in accordance with any decision of the Chief Executive and Board, also operate as the Lead Clinician Group for the Local Health District and may, for this purpose, be allocated such additional functions and membership as the Board and Chief Executive consider necessary to undertake this role.

Part 9 – Medical and dental appointments advisory committee

55. Establishment of medical and dental appointments advisory committee

(1) The Board is to establish a committee called the Medical and Dental Appointments Advisory Committee (in this Part the **"committee"**) which will:

(a) provide advice, and where appropriate make recommendations with reasons, to the Chief Executive concerning matters relating to the appointment or proposed appointment of visiting practitioners, staff specialists or dentists;

(b) consider any application that has been referred to the committee by the Chief Executive for:

(i) appointment of a visiting practitioner, staff specialist or dentist; or

(ii) a proposal to appoint a person as a visiting practitioner, staff specialist or dentist.

(c) provide advice and, where appropriate, make recommendations with reasons to the Chief Executive concerning the clinical privileges which should be allowed to visiting practitioners, staff specialists and dentists.

(2) Where the Chief Executive has delegated such a function to that position, the medical administrator of the local health district (however designated) may appoint a visiting practitioner or staff specialist to an available position for a period not exceeding three (3) months. Such appointment may be extended for one further single 3 month period. However any exercise of this delegation shall be subject to the advice of the committee, if the advice or recommendation of the committee is required for that position.

(3) The committee may form sub-committees, whether at a hospital or otherwise, to provide advice or other assistance to enable it to perform its duties referred to in this clause.

56. Composition of medical and dental appointments advisory committee

The committee shall be composed of:

(1) two members appointed by the Board (at least one of whom is not a medical practitioner), one of whom is to be nominated as the chairperson of the committee;

(2) two members nominated by the medical staff executive council (or where there is no medical staff executive council the medical staff council);

(3) the Chief Executive or his/her nominee;

(4) the medical administrator (however designated) of the local health district or his/her nominee;

(5) such of the following persons (being medical practitioners or dentists) appointed by the Chief Executive as are necessary, in the Chief Executive's view following consultation with the two

representatives appointed under clause 56(2), for the proper consideration of a matter or class of matters referred to the committee:

(a) one representative of the local health district relevant to the matter under consideration;

(b) one representative with qualifications in the speciality or sub-speciality consideration relevant to the matter under consideration and who is not a member of the Medical Staff Executive Council or (or where there is no medical staff executive council the medical staff council);

(c) one representative of a university affiliated with the local health district for the purposes of the training of health practitioners;

(6) where a matter or class of matters referred to the Committee concerns an appointment of a person as a visiting practitioner, staff specialist or dentist to a hospital or hospitals under the control of a local health district, a representative of the medical staff council, if any, for each hospital to which the appointment relates; and

(7) where a matter or class of matters referred to the committee concerns the clinical privileges of a visiting practitioner who is a medical practitioner or of a staff specialist, a representative of the medical staff council, if any, for each hospital to which the appointment relates.

57. Term of office

(1) A member of the committee who is nominated by the Board shall hold office for such period as the Board determines.

(2) A member of the committee who is a nominee of a medical staff executive council or a medical staff council is to hold office for such period as the nominating council determines.

(3) Where a member has been appointed to, or is nominated to be on, the committee for the purpose of considering a particular matter or matters, he or she is a member only for the period or periods during which that matter or matters is under consideration by the committee.

(4) A member of the committee shall absent themselves from the meeting during any discussion by the committee of the appointment or clinical privileges of that member.

Part 10 – Credentials (Clinical Privileges) Subcommittee

58. Credentials (Clinical Privileges) Subcommittee

(1) The Medical and Dental Appointments Advisory Committee (in this Part the "**committee"**) is to establish at least one subcommittee called the Credentials (Clinical Privileges) Subcommittee (in this part called the "**subcommittee**") to provide advice to the committee on all matters concerning the clinical privileges of visiting practitioners, staff specialists or dentists, including the following:

(a) the clinical privileges to be allowed to an applicant or person proposed for appointment as a visiting practitioner;

(b) the clinical privileges to be allowed to a staff specialist or dentist on appointment;

(c) the review of the clinical privileges of a visiting practitioner, staff specialist or dentist at the request of the visiting practitioner, staff specialist or dentist; and

(d) the review of the clinical privileges of a visiting practitioner, staff specialist or dentist at the request of the Chief Executive.

(2) Any matter concerning the clinical privileges of any person:

(a) who is appointed as a staff specialist, a visiting practitioner or dentist, or
(b) who the committee is considering recommending for appointment as a visiting practitioner, a staff specialist or a dentist is to be referred to the credentials subcommittee for advice.

(3) In considering all matters concerning clinical privileges the credentials subcommittee is to have regard to the delineated role of the relevant health facility approved by the Ministry of Health and appropriate credentials in relation to the clinical privileges.

59. Composition of the Credentials (Clinical Privileges) Subcommittee

(1) The subcommittee is to consist of:

(a) at least two members of the committee who are either medical practitioners or dentists, nominated by the committee; and

(b) any other medical practitioners or dentists appointed by the committee who the committee considers are necessary to consider the matter or matters referred to the subcommittee for advice.

(2) The committee is to nominate one of the persons under subclause (1)(a) as chairperson of the subcommittee.

(3) In appointing members of the subcommittee under subclause (1)(b), the committee is to ensure that the appointments are consistent with any Ministry guidelines, Policy Directives or Information Bulletins relating to the delineation of clinical privileges and/or the composition of the subcommittee.

60. Term of Office

(1) A member of the subcommittee who is nominated by the committee shall hold office for such period as the committee determines.

(2) A member appointed to the subcommittee, for the purpose of considering a particular matter or matters, is a member for the period or periods during which the matter or matters is considered by the subcommittee.

(3) A member of the subcommittee shall absent themselves from the meeting during any discussion by the subcommittee of the clinical privileges of that member.

Part 11 – Rules

61. Rules

The Chief Executive may, with the approval of the Board, make rules for the proper functioning of the local health district. These rules should not be inconsistent with the Act, the associated regulations and this By-law.

Part 12 – Interim Arrangements

62. Audit and Risk Committees

The Audit and Risk Committee in existence as at 31 December 2010 for the entity listed in Column A of Schedule 1 to this by-law shall continue to operate as the Audit and Risk Committee of the Local Health District listed against it in column B that schedule, until such time as the Board establishes the relevant committee in accordance with clause 12 of these by-laws.

63. Medical and Dental Appointments Committees

The Medical and Dental Appointments and Advisory Committee in existence as at 31 December 2010 for the entity listed in Column A of Schedule 1 to this by-law shall continue to operate as the Medical and Dental Appointments and Advisory Committee of the Local Health District listed against it in column B of that schedule, until such time as the Board establishes the relevant committee in accordance with clause 55 of these by-laws.

64. Credentials (Clinical Privileges) Subcommittees

The Credentials (Clinical Privileges) Subcommittee/s in existence as at 31 December 2010 for the entity listed in Column A of Schedule 1 to this by-law shall continue to operate as Credentials (Clinical Privileges) Subcommittee/s of the Local Health District listed against it in column B of that Schedule, until such time as a Medical and Dental Appointments and Advisory Committee established by the Board under clause 55 of this By-law, establishes Credentials (Clinical Privileges) Subcommittee/s in accordance with clause 58 of these by-laws.

65. Dictionary

Explanatory Notes

Certain words and phrases used in the by-law are 'defined' in the dictionary. These largely repeat those used in the Health Services Act so that the use of such words in the by-law is consistent with the Act.

Act means the Health Services Act 1997.

Chief Executive means the chief executive of a local health district.

Board means the Board appointed under s26 of the Act

clinical privileges means the kind of clinical work (subject to any restrictions) that the local health district determines the visiting practitioner or staff specialist is to be allowed to perform at any of its hospitals or health services.

Credentials means a document or other written evidence of an indivudals formal qualifications, skills, or competence

council means a Medical Staff Executive Council, a medical staff council or a clinical council, as applicable

dentist means a person registered, or taken to be registered, as a dentist under the Health Practitioner Regulation National Law.

Ministry means the NSW Ministry of Health.

executive staff means the persons appointed by the local health district to its management structure and any persons appointed to act for the time being in those positions.

health service means any of the following
(a) any hospital service,
(b) any medical service,
(c) any paramedical service,
(d) any community health service,
(e) any environmental health service,
(f) any other service (including any service of a class or description prescribed by the regulations) relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or injury to persons.

hospital means an institution at which relief is given to sick or injured people through the provision of care or treatment.

Local health district means the local health district constituted under Schedule 1 to the Act or a speciality network governed statutory health corporation.

medical practitioner means a person who is registered, or taken to be registered, as a medical practitioner under the Health Practitioner Regulation National Law.

public hospital means a hospital controlled by a local health district.

regulations means the regulations made under the Act.

staff specialist means a medical practitioner employed at local health district as a staff specialist under the Staff Specialist (State) Award.

visiting practitioner means a medical practitioner or dentist who is appointed by a local health district (otherwise than as an employee) to practise as a health practitioner in accordance with such conditions of appointment at any of its public hospitals or health services as may be specified in an appointment agreement (including a clinical academic).

SCHEDULE 1

COLUMN A	**COLUMN B**
Sydney West Area Health Service	Western Sydney Local Health District Nepean/Blue Mountains Local Health District
Greater West Area Health Service	Far West Local Health District Western NSW Local Health District
Greater Southern Area Health Service	Southern NSW Local Health District Murrumbidgee Local Health District