

Health and Safety at Work Act 2015

Guidelines for Medical Practitioners

Executive Summary

The Health and Safety at Work Act 2015 imposes duties on Consulting Specialists working within Private Hospitals and those leasing Consulting Space from Private Hospitals.

Under the Act, the Consulting Specialist is regarded as a Person Conducting a Business or Undertaking (PCBU). A PCBU is responsible for identifying and managing risks within the working environment (e.g. operating theatre) to ensure as far as is reasonably practicable the health and safety of hospital staff, patients, visitors, and contractors.

The Hospital is also a PCBU and has the same obligations. Under the legislation, the Specialist and Hospital must consult, cooperate and coordinate with each other and work together on health and safety matters. Neither party can contract out of these responsibilities or transfer them to the other party.

Background

1. The Health Safety at Work Act 2015 came into force on 4 April 2016. It imposed broader duties on “persons conducting a business or undertaking” (or “PCBU”), and mandates a collaborative approach to health and safety matters. Both Hospitals and Consulting Specialists are seen as PCBUs under the Act. The PCBU will be the trading entity, generally a company (such as Tom Smith Medical Specialist Limited), but will be the individual if they trade in their own name, not through a company or other structure.
2. Given the substantial changes brought about by the Act, it is important to record this hospital’s expectations of specialists in relation to matters of health and safety.
3. This document is a precis of certain key concepts under the Health and Safety at Work Act 2015. It is not comprehensive, and is not intended to be a substitute for you becoming familiar with the requirements of the Act and Regulations made under it.

Duties

4. The Act imposes duties on various parties. A duty imposed on a person by or under the Act requires the person to eliminate risks to health and safety, so far as is reasonably practicable; and if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.
5. The primary duty that is imposed on all PCBUs is to:
 1. ...ensure, so far as is reasonably practicable, the health and safety of—
 - a) workers who work for the PCBU, while the workers are at work in the business or undertaking; and
 - b) workers whose activities in carrying out work are influenced or directed by the PCBU, while the workers are carrying out the work.
 - 2) ...ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.

6. That includes:
 - a) the provision and maintenance of a work environment that is without risks to health and safety; and
 - b) the provision and maintenance of safe plant and structures; and
 - c) the provision and maintenance of safe systems of work; and
 - d) the safe use, handling, and storage of plant, substances, and structures; and
 - e) the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities; and
 - f) the provision of any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and
 - g) that the health of workers and the conditions at the workplace are monitored for the purpose of preventing injury or illness of workers arising from the conduct of the business or undertaking.

7. That extends beyond ensuring the safety of staff directly engaged by you to staff employed by the hospital, and contractors whose work or environment is controlled or influenced by you.

8. There are also other specific duties imposed (for example) on those who control a place of work. That would apply to specialists who rent premises from the hospital.

9. A key feature of the legislation is the overlapping duties that arise. For example, both a specialist and a hospital may owe the same duty to ensure the safety of those working in the theatre environment. One cannot contract out of responsibilities under the Act and duties are not transferrable.

10. Where there are overlapping duties, there is a requirement for consultation between duty holders on health and safety matters. We will insist on the consultation process taking place when:
 - a) identifying hazards and assessing risks arising from the work performed or to be performed at the business or undertaking.
 - b) making decisions about ways to eliminate or minimise those risks.
 - c) proposing changes that may directly affect the health and safety of workers; and
 - d) making decisions regarding procedures for the resolution of health and safety issues, consultation mechanisms, monitoring the health of workers and conditions at the workplace.

11. To be effective, consultation needs to address:
 - a) what each party will be doing in the workplace, how, when and where and what equipment or substances may be used.
 - b) who has control or influence over aspects of the work or the environment in which the work is being undertaken.
 - c) implementing engineering controls.

If a risk then remains, the PCBU must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.

If a risk then remains, the PCBU must minimise the remaining risk by ensuring the provision and use of suitable personal protective equipment.

Such control measures must be reviewed regularly and if necessary revised to ensure that controls are effective and maintain, so far as is reasonably practicable, a work environment that is without risk to health and safety.

- d) Any equipment you bring into our facility must be:
- fit for purpose.
 - maintained in accordance with the manufacture's requirements or any applicable New Zealand Standard.
 - Only used by a person trained and competent in its use.

Hazard Identification

12. We require you to immediately report to us any hazard you identify including equipment in theatre which is known to be not working correctly.

Specific Matters

13. All staff working in a private hospital, including visiting specialists, need to be inducted into the workplace. This includes being made aware of correct health and safety procedures and advised of hazards. Any staff employed by you, or trainees or registrars under your charge shall be advised to the hospital and you must ensure that they have been inducted into the hospital's health and safety system.
14. If you rent premises from us, you are responsible as a PCBU who manages or controls a workplace and therefore must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person. You must also comply with the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.

These guidelines address the legislative requirements for consulting specialists working within or leasing consulting space from private hospitals. This isn't just about the legislation. It is about the proper care of your staff, your patients and yourselves. Good health and safety practices should be embedded into the culture of your workplace.

Health and Safety at Work Act (2015) & Regulations (2016)

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