

Code of Practice (COP) for Key Officeholders FAQ

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A. Rationale for introducing the Code of Practice (COP)

1. Are the requirements under the Code of Practice (COP) currently in force under the Private Hospitals and Medical Clinics Act (PHMCA)?

- No, these are new requirements aimed at enhancing the governance of licensable services under the Healthcare Services Act (HCSA) to better safeguard patient safety and welfare, and part of our efforts to formalise the roles of key appointment holders (KAHs).

B. Suitability Requirements for Key Officeholders

2. Why are the suitability, skills and competencies and process requirements for key officeholders (KOHs) stipulated in the COP instead of the Act or Regulations?

- Siting standards in the COP enables the Ministry to respond more nimbly to keep pace with the evolution of healthcare. MOH can more effectively calibrate the standards required of each tier and type of licensable service, to adequately protect patient safety and welfare, while minimising unnecessary regulatory burden on licensees.

3. I am charged with / pending charges for offences other than the ones listed under the suitability criteria. Am I still eligible to be a KOH?

- Yes, you are considered to be eligible in this regard as long as you are not charged with or convicted of those specific offences, but you remain subject to meeting other suitability and relevant competency requirements for the particular role.

4. Am I eligible to be a KOH if an offence listed under the suitability criteria has been compounded and I have paid the composition sum?

- You will be considered eligible to be a KAH in this regard, but you remain subject to meeting other suitability and relevant competency requirements.

C. Scope of application of the COP

5. Do I need to have a key appointment holder (KAH) if I only provide non-premises-based services such as telemedicine?

- Yes, all licensees will have at least one KAH. The KAH requirements depend on the business structure of the healthcare institution, and not the licensable healthcare service provided. For example, the registered business owner, or its governing body if the registered business owner is a corporate entity, will be the

<p>KAH of a sole proprietorship, regardless of the type of healthcare service provided.</p>
<p>6. If my business does not have an existing Board of Directors (BOD), will I be required to set up one? Will the requirements for KAHs apply to me?</p>
<ul style="list-style-type: none"> • No, you will not be required to set up a BOD if you do not already have one. • For example, the KAHs of a partnership will be the registered partners of the business providing the licensable healthcare service. • Regardless of the organisational title or designation of the KAH, the same KAH requirements apply for all licensed services within the same tier (based on their business structure), e.g. the KAH needs to be sufficiently senior and experienced in order to discharge his or her responsibilities under the COP.
<p>7. I am a new licensee / business owner. Am I required to meet the COP requirements before I apply for a licence under the HCSA? What can I do if I am unable to meet the COP requirements?</p>
<ul style="list-style-type: none"> • Yes, all licence applicants need to meet all relevant requirements under the HCSA, its Regulations, COP and licensing terms and conditions (LTCs) before service provision. • Licensees who do not have KAH(s) who meet the competency and experience requirements will need to appoint another person(s) to fulfil the requirements.

D. Tiering of requirements

<p>8. Why are charities, societies and co-operative societies (co-ops) only subject to the qualification and experience requirements for Tier 1, regardless of its size?</p>
<ul style="list-style-type: none"> • These entities are subject to similar, if not more stringent, governance requirements under the relevant Acts and Codes of Governance outside of HCSA, such as those stipulated under the Societies Act or the Code of Governance for Charities and Institutions of a Public Character (IPCs). • Hence, the focus of HCSA for this group of licensees is on the qualification and experience requirements for Tier 1, which is not covered in existing standards that these entities currently have to comply with outside of HCSA.
<p>9. Why are MOH statutory boards not subject to any qualification requirements in the COP?</p>
<ul style="list-style-type: none"> • MOH will continue to issue specific clinical, corporate and composition requirements to its statutory boards, through existing governance channels. These will be aligned with requirements in the COP.

- MOH statutory boards are also required to comply with the broader governance requirements in the relevant Acts and Government Instruction Manual.

E. Implementation

10. When will the COP be implemented?

- The COP will be implemented in Phase 1 and will apply to licensees as they are licensed under the various HCSA phases of implementation, e.g. a medical clinic licensee (to be implemented in Phase 2) will have to comply with the COP when it is licensed under HCSA.
- Licensees who provide more than one licensable HCSA service will be required to meet the COP for the service(s) as and when each service is covered under HCSA.
- For example, if a licensee intends to provide a clinical laboratory service (to be covered under HCSA in Phase 1) and a medical clinic service (to be covered under HCSA in Phase 2), the licensee is required to comply with the COP requirements for clinical laboratories from Phase 1 and additionally for medical clinics from Phase 2 of HCSA implementation.

11. I am a small company (subject to Tier 2 requirements) that is transiting to a non-small company (subject to Tier 3 requirements). I will only confirm this at the end of the Financial Year (FY) when I take stock of my company's revenue, total assets and/or number of employees for the FY. When must I comply with the additional requirements for the enhanced tier?

- Additional requirements for the enhanced tier should be complied with from the point of lodging the audited financial statement with the Accounting and Corporate Regulatory Authority (ACRA).
- This is to ensure that appropriate governance is in place, commensurate with the scale of the business and estimated risk to patient safety and welfare.
- The company should start sourcing for KAH candidates and appointing appropriate KAHs in compliance with the COP requirements for the higher tier at that point.
- When asked during inspection, the company should provide evidence (e.g. email correspondence) reflecting such efforts of sourcing for appropriate KAH candidates from the point of lodging the financial statement, and their appointment from the earliest possible date.

12. Do the COP requirements differ for different licensable HCSA services?

- Broadly, the COP requirements are tiered by business structure.

- The requirements were developed taking into consideration differences in capabilities and structures of the KAH bodies (e.g. sole proprietors, partners, BOD) between different licensees, even within the same licensable healthcare service type under HCSA.
- In consultation with professional and sector leaders, MOH has assessed that KAHs need a certain level of competency and experience in order to discharge their governance duties.
- These demands, along with impact on patient safety and welfare, increase with the complexity of managing a larger business.
- The clinical requirements of the KAHs are tailored to relevant considerations of specific services settings. For example, the KAHs for the nursing home service are required to be registered doctors or nurses with minimum qualifications and number of years of experience relevant to the nursing home setting.

13. Can an individual be a KAH to more than one licensee? Is there a limit to the number of licensees that a person can be KAH to?

- Yes, an individual can be a KAH to more than one licensee and there is no fixed limit as to the number of licensees for which an individual can act as KAH.
- Notwithstanding this, a KAH is expected to dedicate sufficient time and attention to effectively exercise appropriate governance over the affairs of every licensed healthcare service for which the individual is a KAH. Both the licensee and the KAH should be mindful of this, respectively in appointing and taking up the appointment as KAH.

14. I am the licensee of a company / limited liability partnership (LLP) / body corporate. Do all my internal governance bodies e.g. medical board etc. need to comply with the COP?

- Only the main governing body (e.g. the BOD for a company, the Board of Trustees for a society) needs to comply with the COP's requirements.

15. I am registered as a sole proprietor with ACRA and I do not have a BOD. Who should my KAH be?

- The KAH(s) is/are the person(s) who has/have general management or supervision of the business of the applicant or licensee, and is/are required to fulfil the relevant requirements.
- If the registered owner of the sole proprietorship is a corporate entity, the BOD or other governing body who has appropriate oversight of the corporate entity is the sole proprietorship's KAH. For example, if a company is registered as the owner of a sole proprietorship, the BOD of that company is the KAH of the sole proprietorship.

<ul style="list-style-type: none"> If the sole proprietor is a natural person, that person should be the KAH if he has the appropriate oversight of the business.
<p>16. The partners of my partnership include a company. Who should my KAHs be?</p>
<ul style="list-style-type: none"> Both partners of the partnership are KAHs. However, if one or both of the partners is a corporate entity, the BOD or other governing body who has appropriate oversight of the corporate entity is the KAH.
<p>17. Can I appoint only some of my Board members as KAH under HCSA?</p>
<ul style="list-style-type: none"> All Board members are by default KAHs. The Board is required to fulfil the minimum requirements for the specific tier that the licensee is in. Depending on the tier, this may be fulfilled by at least one KAH.
<p>18. Can the same person be the licensee, PO, CGO and KAH?</p>
<ul style="list-style-type: none"> Yes, as long as the person meets all the requirements for the relevant roles. This ensures proper governance while allowing greater operational flexibility.
<p>19. If I am licensed to provide more than one service, but some of the services do not require a CGO or Clinical Director (CD), am I still required to have at least one KAH who meets the clinical requirements?</p>
<ul style="list-style-type: none"> The clinical requirements are to be met for all licensed services. However, you may wish to appoint a PO who meets the clinical requirements for services without a CGO or CD, in which case the KAH would be exempted from those clinical requirements.

F. Other requirements

<p>20. Are there requirements on the minimum meeting frequency for the key governing body and the quorum for each meeting under the COP? Does the COP stipulate a minimum or maximum term for KAHs?</p>
<ul style="list-style-type: none"> The COP does not set such requirements. Where relevant, licensees should comply with existing laws and requirements for the key governing body, such as those stipulated under the Companies Act or the Code of Governance for Charities and IPCs.
<p>21. Are there any other requirements or guidelines for KAHs under the HCSA?</p>
<ul style="list-style-type: none"> Apart from possessing the necessary skills and competencies, every KAH of the licensee must be a 'suitable' person to act in that capacity. In determining whether a person is suitable, MOH will have regard to various factors including those set out in section 2(3) HCSA.

- Additionally, the COP describes a list of circumstances as to when a person would not be 'suitable' to act as a KAH.
- The suitability requirements will apply to all key officeholders under HCSA (i.e. licensee, KAH, PO and CGO).

G. Administrative issues

22. What documents should I provide during licence application or inspection, to show that I comply with the KAH and process requirements under the COP? (What are the additional administrative requirements?)

- During licence application and renewal, licensees will be asked to declare in the application form that the relevant COP requirements are met.
- Licensees do not need to upload supporting documents to substantiate the declaration during application.
- However, licensees may subsequently be asked to submit supporting documents, including competencies and experience of relevant KAHs and process measures, to substantiate their licence application or as part of the inspection process.
- Examples of the supporting documents include and are not limited to proof of KAH's qualification, records of board members, and ACRA bizfile profile.

H. Responsibilities and penalties

23. What are the penalties for not complying with the COP?

- Under section 23(2) of the HCSA, the licensee may be required to remove from appointment a KAH who is not a suitable person to act in that capacity in relation to the licensee or does not possess any of the skills or competencies prescribed in the COP.
- The regulatory actions that may be taken against the licensee are set out in section 20(2) HCSA.
- Any contravention or failure to comply with the COP does not of itself render the licensee liable to criminal proceedings, but it can be used in any proceedings as compounding factors when considering a breach of the Act.¹
- Furthermore, non-compliance with any Code of Practice issued will be taken into account at license renewal or licence application.²

¹ HCSA s38(10)

² HCSA s11(3)(d)(i)

24. Who will be held accountable if a KAH is found to be non-compliant with the COP or other HCSA requirements subsequently?

- The licensee is ultimately accountable and is responsible for overall compliance to the HCSA, Regulations, COP and LTCs.
- If found unfit or unsuitable, the licensee may be directed to remove the KAH from his/her appointment, under section 23(2) of the HCSA.
- Depending on the circumstances of non-compliance with other HCSA requirements, the KAH may be held culpable along with the licensee under sections 45 or 46 HCSA, e.g. if the KAH was found to have provided direction resulting in the non-compliance, or have failed to take all reasonable steps to stop the commission of the offence despite knowing about it beforehand.