

Code of Practice (COP) for Key Officeholders FAQ

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

1. [Updated on 15 Jul 2021] 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 to enhance the governance of licensable services under the Healthcare Services Act (HCSA), to better safeguard patient safety and welfare. The intention is to formalise the roles of key appointment holders (KAHs).

B. Suitability Requirements for Key Officeholders

2. 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.

3. 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

4. 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 KAH of a sole proprietorship, regardless of the type of healthcare service provided.

5. 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?

- 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.

6. 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?

- 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

7. [Updated on 15 Jul 2021] Why are charities, societies and co-operative societies (co-ops) only subject to the clinical requirements for Basic Tier, regardless of their size?

- Similar to charities, these entities are subject to 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 clinical qualification requirements under the Basic Tier, to complement the prevailing governance standards that these entities have to comply with outside of HCSA.

8. [Updated on 15 Jul 2021] Why are MOH statutory boards not subject to any clinical qualification requirements in the COP?

- Such requirements on these statutory boards are imposed through existing governance channels.
- MOH statutory boards are also required to comply with the broader governance requirements in the relevant Acts and Government Instruction Manual.

9. [Updated on 15 Jul 2021] My clinic is registered with the Accounting and Corporate Regulatory Authority (ACRA) as a Private Limited (Pte Ltd) corporation, but my practice is owned and operated by me as a single practitioner, and I am the only director listed on ACRA. Where does my clinic fall under the KAH framework?

- Although a Pte Ltd corporation is technically a company under ACRA, in cases where only one Director is registered with ACRA for that company, we will categorise such a company under the Basic Tier of the KAH framework, as it operates more closely to a sole proprietorship model for purposes of HCSA.

E. KAH requirements

10. [Updated on 15 Jul 2021] Can a Family Physician (FP) with Graduate Diploma in Family Medicine (GDFM) qualify as a KAH for Medical Clinic, Telemedicine or Community Hospital services? What if he or she has practised for 3 years or more in the same or relevant setting?

- If an individual were to qualify as a KAH based only on FP accreditation and Family Medicine (FM) qualification, he/she needs to be an accredited FP with at least a Master of Medicine in Family Medicine (MMed(FM)) qualification.
- Nonetheless, such an individual may still be able to qualify as a KAH by meeting the minimum number of years of relevant practice, i.e. at least 3 years within a 5-year period in the same or relevant setting in Singapore as the licensable healthcare service, regardless of FP accreditation and FM qualification.

11. [Updated on 15 Jul 2021] Is it necessary for solo GPs/FPs without MMed(FM) qualification to appoint another doctor to be their KAH?

- Solo practitioners with at least 3 years of local practice (out of a 5-year period) in the GP and/or polyclinic setting would fulfil the clinical qualification requirement of the KAH.
- Older GPs should be able to meet this clinical requirement based on their years of relevant experience.

12. [Updated on 15 Jul 2021] Can doctors on conditional registration meet the clinical KAH requirements, if they meet the minimum number of years of experience?

- No, only fully registered medical practitioners can meet the clinical KAH requirements, as conditionally registered doctors are required to work under the supervision of those who are fully registered, and cannot effectively provide the independent oversight expected of a KAH.

13. [Updated on 15 Jul 2021] I am granted full registration by SMC. Does my local practice during my conditional registration count towards the minimum practice period required?

- Yes, relevant experience acquired during your local practice under conditional registration in the past can count towards the minimum practice period required for meeting the clinical KAH requirements when you are fully registered.

14. [Updated on 15 Jul 2021] I practise part-time (<40 hours per week). How does the 3-year minimum practice period apply to me?

- The minimum practice period requirement is put in place to ensure that there is at least one KAH with a minimum level of clinical experience to ensure patient safety and welfare. As a guide, the minimum number of practising hours should be 6,240 hours (computed based on 40 hours per week for 3 years) in total for part-time practice. This is to ensure that the same minimum level of clinical experience is achieved as full-time practice.

F. Implementation

15. [Updated on 15 Jul 2021] When will the COP be implemented?

- The COP will be implemented in Phase 1 and will apply to licensees as and when they are licensed under the respective phases of HCSA implementation, e.g. a medical clinic licensee (to be regulated under HCSA in Phase 2) will have to comply with the COP only 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.

16. [Updated on 15 Jul 2021] I am a small company (subject to Basic Tier requirements) that is transiting to a non-small company (subject to Enhanced Tier 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 requirement for the Enhanced Tier?

- In addition to the Basic Tier requirements, licensees under the Enhanced Tier are required to appoint at least one KAH with competencies in the management of business in general or in the provision of the same or a related licensed

healthcare service, including at least 5 years of prior experience in managing business in general or healthcare service of comparable or greater staff strength than that of the licensable healthcare service. This may be fulfilled by the same person who meets the Basic Tier KAH requirements.

- The additional requirement 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, if necessary.
- 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.

17. 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.

18. [Updated on 15 Jul 2021] Can an individual be a KAH for more than one licensee and/or licensable service? Is there a limit to the number of licensees and/or licensable services that a person can be KAH to?

- Yes, an individual can be a KAH to more than one licensee and/or for more than one licensable service, as long as he / she can fulfil the KAH requirements.
- Notwithstanding this, a KAH is expected to dedicate sufficient time and attention to effectively exercise appropriate governance over the affairs of every licensed

<p>healthcare service for which the individual is a KAH. Both the licensee and the KAH should be mindful of this in appointing and taking up the appointment as KAH.</p>
<p>19. 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?</p>
<ul style="list-style-type: none"> • 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.
<p>20. I am registered as a sole proprietor with ACRA and I do not have a BOD. Who should my KAH be?</p>
<ul style="list-style-type: none"> • 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. • If the sole proprietor is a natural person, that person should be the KAH if he has the appropriate oversight of the business.
<p>21. 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>22. 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>23. 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>24. [Updated on 15 Jul 2021] If I am licensed to provide multiple services, with some requiring a CGO (e.g. clinical laboratory) and others not requiring a CGO (e.g. medical clinic), am I still required to have at least one KAH or PO who meets the clinical qualification requirements?</p>
<ul style="list-style-type: none"> • The clinical qualification requirements to be met (by the KAH or PO) apply to each licensed service where there is no CGO appointed. Although you have a

CGO appointed for the clinical laboratory service, that CGO's oversight does not extend to the medical clinic service. Therefore, the medical clinic service remains subject to the clinical qualification requirements, which may be fulfilled by the KAH or PO.

25. [Updated on 15 Jul 2021] Does the KAH have to be an employee of the organisation?

- No. Organisations may choose to appoint an external individual with the requisite qualifications and experience to be their KAH. However, there should be clearly documented arrangements with the person appointed as the KAH, so that the person is aware of his/her obligations, and can discharge his/her duties effectively.

G. Other requirements

26. [Updated on 15 Jul 2021] 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?

- The COP does not prescribe 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.

27. Are there any other requirements or guidelines for KAHs under the HCSA?

- 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).

H. Administrative issues

28. [Updated on 15 Jul 2021] What documents should I provide during licence application or inspection, to show that I comply with the KAH 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, 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.

29. [Updated on 15 Jul 2021] Am I required to provide information on my KAH(s) in my licence application / renewal?

- Licensees are required to provide information on their KAH(s) during the licence application.
- In the longer term, we will draw the KAH information from ACRA where available. For licensees who are individuals not registered with ACRA (e.g. a single owner whose business is not registered as a sole proprietorship under ACRA), they are required to continue to provide their KAH information during licence application as that information will not be available at ACRA.

I. Responsibilities and penalties

30. 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

¹ HCSA s38(10)

- Furthermore, non-compliance with any Code of Practice issued will be taken into account at license renewal or licence application.²

31. 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.

² HCSA s11(3)(d)(i)