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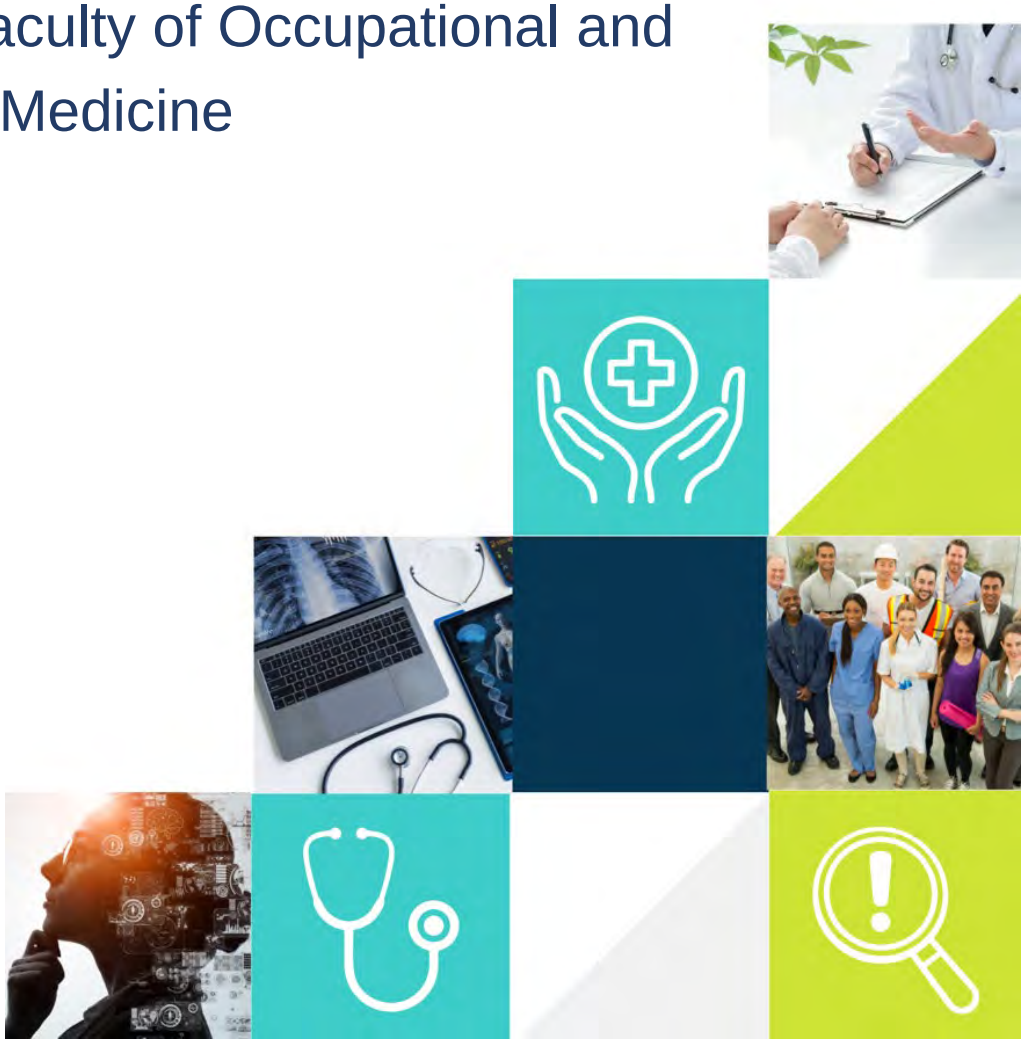
Best Practice in Occupational and Environmental Medicine

A guidance document from the Australasian Faculty of Occupational and Environmental Medicine



Contents

About the Royal Australasian College of Physicians (RACP)

The RACP trains, educates and advocates on behalf of physicians and trainee physicians, across Australia and Aotearoa New Zealand. The RACP represents a broad range of medical specialties including occupational and environmental medicine, general medicine, cardiology, respiratory medicine, neurology, oncology, public health medicine, infectious diseases medicine, palliative medicine, sexual health medicine, rehabilitation medicine, geriatric medicine, paediatrics and child health, and addiction medicine. Beyond the drive for medical excellence, the RACP is committed to developing healthcare policies which bring vital improvements to the wellbeing of patients, the health system and the community.

About the Australasian Faculty of Occupational and Environmental Medicine (AFOEM)

The AFOEM is a Faculty of the RACP that represents and connects occupational and environmental medicine Fellows and trainees in Australia and Aotearoa New Zealand through its Council and committees. AFOEM are committed to establishing and maintaining a high standard of training and practice in Occupational and Environmental Medicine in Australia and Aotearoa New Zealand through the training and continuing professional development of members and advocating on their behalf to shape the future of healthcare.

We acknowledge and pay respect to the Traditional Custodians and Elders – past, present and emerging – of the lands and waters on which RACP members and staff live, learn and work. The RACP acknowledges Māori as tangata whenua and Te Tiriti o Waitangi partners in Aotearoa New Zealand.

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Introduction

The Australasian Faculty of Occupational and Environmental Medicine (AFOEM) has created a guidance document on the ethics and good standards of professional practice for Occupational and Environmental Medicine (OEM) physicians because of:

- **The breadth of scope of this medical specialty in the workplace**
- **The diversity of settings in which OEM physicians work**
- **The range of stakeholder relationships in the space**
- **The varying nature of therapeutic relationships which take place largely outside hospitals or clinical settings.**

The purpose of this document is to provide guidance on many of the areas of OEM physician practice on which questions of ethics and good practice arise. It is not intended to be prescriptive.

The practice of OEM is mediated by workplace legislation and regulation (nationally in Australia and Aotearoa New Zealand, as well as via states and territories in Australia), health care quality and standards, new technologies, new industries, new workplace approaches and new ways of delivering health care.

OEM physicians navigate complex and sometimes competing responsibilities which involve workers (and individual patients), employers, the public, public health and industrial bodies and others such as judicial authorities.[1] OEM has expanded its practice to encompasses the medical aspects of illness, sickness absence from work, rehabilitation and return to work, support and management of chronic non-communicable diseases, psychosocial hazards, and workplace health awareness and promotion.

The national reinforcement of the importance of addressing psychosocial harm and mental health issues in the workplace[2] highlights the value of a biopsychosocial model in return to work programs (eg. a change program campaigned by AFOEM in It Pays to Care). Workplaces are complex and multifactorial, with factors such as burnout and moral distress experienced by workers (eg. in healthcare workplaces); increased social, cultural, political, religious and moral diversity of workplaces; new ways of sharing and storing data, including patient data, all needing to be considered and appropriately managed.

Workplaces too, have concurrently changed shape with technological practices, hours of work, considerations of cultural safety and freedom of religious practice, new job roles, use of part-time and contract roles, external demands, job specialisations, decision-making processes, and compliance with workplace legislation. The rights of workers, including the right to information, are balanced with employer drives for profit, capacity to employ and industrial secrecy. Employer

work practices can impact the individual, other workers, and the industry community.

This guidance document refers to the many elements that must be juggled by OEM physicians across parties: confidentiality, objectivity, integrity, conflicts of interest, inherent ethical and practice implications and appreciations of workplace hazards. Other useful RACP documents to refer to include Clinical Ethics Position Statement and Guidelines for ethical relationships between health professionals and industry.

Further resources such as the International Commission on Occupational Health (ICOH) Code of Ethics and the American College of Occupational and Environmental Medicine Code of Ethics are a key guide for ethics for occupational health practice. OEM physicians should work consistently with relevant ethical and practice standards and the ethical approach of the organisations within which they work. Other key references include the Medical Board of Australia Good medical practice: a code of conduct for doctors in Australia and the Medical Council of New Zealand Good Medical Practice.

Medical ethics and occupational and environmental medicine

Ethics is a fundamental part of all health care, both at the practice interface and in the design and delivery of healthcare services.[3] This is because good health care is aimed at promoting, securing and improving the physical and psychological welfare of individuals and communities. The four key ethical principles of medical practice for OEM physicians are:[4]

1) **Autonomy**. This is the right of an individual to self-determination, based on making their own informed free choices. For OEM physicians, this means they should not make decisions for others or withhold information needed for individuals to make their own decision, especially regarding the acceptability of risk. OEM physicians must support and encourage the patient to act in accordance with their own beliefs and values, taking responsibility for informed decision-making.
2) **Non-maleficence.** This is the doctrine of not doing harm. OEM physicians routinely have multiple clients (workers, patients and employers). Although the relative merits of the competing claims that can result may be the subject of ethical debate, they must always remain based on the principle of 'above all, do no harm'. OEM physicians must consider the benefits of all procedures and weigh them against the potential risks and burdens on the patient.
3) **Beneficence.** This principle means for OEM physicians to act for the benefit of the patient. It also includes a moral obligation to protect and defend the rights of others, prevent harm, and remove conditions that will cause harm.[4]
4) **Justice.** This is the moral obligation to act based on fair adjudication between competing claims. As such, it is linked to empowerment, equity, equality and justice should temper all considerations.

OEM physician practice involves a community of OEM and non-OEM medical practitioners; organisations concerned with safety, health and the environment; regulators; employer and worker organisations, unions and legal practitioners. This means that as well as having regard for the same medical ethical issues as for other fields of clinical practice, OEM physicians are often confronted with those arising from the context in which they practice: workplace health with its multiple parties.

Therefore, in addition to obligations to individual patients under their care, OEM practitioners typically have broader, often legally mandated and sometimes conflicting responsibilities regarding workforces, employers, their representatives and the public.

1. Health Evaluation and Management

Occupational health assessments

For most jobs, detailed occupational assessments by a medical practitioner are *not* required: disclosures of any relevant health issues or disabilities may be sufficient for the individual and employer to support any required accommodations.

Some jobs, however, do require a pre-placement health assessment as part of the recruitment process. These assessments may be a statutory requirement and/or response to health and safety risks to the individual or others, or risks for the employer. Examples include safety-critical work, emergency and military services, or working in physiologically demanding or remote locations.

Occupational health assessments should only be used to provide advice to employers regarding the medical fitness of a prospective worker to undertake the intended role and to identify aspects of that role that the individual may have difficulty with or pose a risk to themselves or others. Occupational health assessments should not be used as an alternative to workplace controls. Occupational health assessments may also provide a health baseline at the commencement of employment and can provide valuable information for the management of emergency situations.

While in many cases, occupational health assessments are not conducted by OEM physicians, they have a valuable oversight role. OEM physicians can:

- Provide valuable advice regarding policy
- Develop the relevant scope of the occupational health history, examination and investigations
- Determine the qualifications needed to conduct aspects of the assessment
- Make fitness to work recommendations
- Identify when patients/clients should be referred for further investigations
- Identify what information will be provided to who and why.

Such advice must be based on current evidence and reflect the resources available to employers and patient/clients.

AFOEM recommends the following:

- As occupational health assessments are not an administrative function, they should only be conducted by healthcare professionals within their scope of practice.
- The scope of the occupational health assessment must reflect the nature of the work to be undertaken in accordance with the relevant legislation.
- Privacy considerations relating to storage and disclosure of information must apply to all occupational health assessment documentation, in accordance with relevant legislation.
- Reports to employers/management must be limited to the patient/client's work capability and capacity. It must not include medical or other details without consent from the individual.

In general, applicants will be classed as either:

- ‘Fit for the proposed employment’.
- ‘Fit subject to defined adjustments’ (or ‘fit with restrictions’). In such cases, the prospective employer is responsible for determining whether it is reasonable to apply these adjustments/restrictions and hence whether to confirm the appointment.
- ‘Unfit for the proposed employment’, typically because the applicant is unable to meet predetermined standards. As these may be inherently discriminatory, OEM physicians setting and applying these standards and/or recommendation may be required to justify their advice. OEM physicians engaged in developing and applying these standards should ensure they are:
- Based on work capability, rather than specific medical diagnosis/conditions.
- Are underpinned by robust current evidence.
- Facilitate realistic expectations at an early stage in the recruitment process by being readily available to applicants.

OEM physicians may diagnose a medical condition during assessment of which the patient/client was unaware. Where this occurs, the OEM physician must inform the patient/client and make reasonable attempts to ensure that the individual receives appropriate medical advice and follow up, via their own treating doctor.

An OEM physician is responsible for all health care related advice, including recommendations for treatment or health services, provided to patients/clients, as well as employers. OEM physicians engaged in workplace health have the same obligations to all persons for whom they are providing any type of medical service – it does not alter their professional or ethical responsibilities.

- A ‘limited review of information’ when providing an OEM service, including referral for an investigation, is not acceptable medical practice and poses unacceptable risks.
- Duty of care is to the person who receives the OEM service, regardless of the terminology used in various contexts: ‘patient’, ‘client’, ‘candidate’ or other terms.
- A therapeutic relationship exists between the OEM physician and a client/patient which supports the client/patient’s therapeutic goals, regardless of the origin of the referral, whether that is from another medical practitioner or an employer. If a client/patient is to be referred for an OEM service, there is an obligation in the therapeutic relationship for the OEM physician to establish the clinical need and maintain appropriate documentation (including clinical notes) as part of the evaluation and request.
- When providing any OEM service, it is the duty and responsibility of the OEM physician to obtain and review all information necessary to ensure an OEM service is appropriate, conducted safely and with minimal risk to the recipient of the medical service. Where there is risk, the patient should be informed of the potential risks involved and informed consent obtained.

Physicians have a responsibility to use finite healthcare resources responsibly and practice evidence-informed best-practice health care. This includes being mindful of opportunity costs, which refers to when the resources expended on managing one patient/client means resources may not be available for others. Effective and efficient use of healthcare resources should be considered for diagnostic investigations and treatments.

When undertaking pre-employment assessments, including screening tests, it is important that these be undertaken by medical practitioners trained in occupational medicine as they have the skills to undertake a comprehensive assessment of the demands of the job and the health requirements specific to that job.

Factors relevant to decisions about diagnostic and testing resources include:

- Avoiding inappropriate use that may harm patients either from the procedure itself, or the anxiety, lost time and productivity, for example, regarding findings that may not require further investigation and possible treatment.
- Assessing investigations that are clinically useful but have high false positive rates. These should be discussed with the patient/client beforehand.
- The potential drive to practice 'defensive medicine' to avoid missing something. Clinical judgement is needed.

The RACP Evolve program encourages physicians to engage in shared decision-making with a patient and/or carer and asks physicians to address the five key questions before recommending medical services. These query whether a practice should be undertaken for a patient, whether the risks to the patient outweigh the benefits, whether the patient really needs the medical service and if there are safer, simpler options.

Fitness for work

In most circumstances, 'fitness for work' advice can be limited to work capacity without the need to provide clinical information. If disclosure of a medical condition is required, the worker should provide their written consent. Even then, the information provided should remain limited to mitigating the impact of the condition(s) on the worker's job and how the worker's job affects their condition(s).

Sickness absence: Although controlling sickness absence is a management matter, providing timely and good quality occupational health advice supports workers and management. Any advice regarding a worker to an employer from an OEM physician must comply with the relevant privacy principles.

Certificates should be legible, precise, correct and dated accordingly (or refer to relevant Fair Work advice), while workplace restrictions should be relevant, specific, detailed, and evidence informed. Certificates should be issued with the worker's knowledge and must comply with the relevant legislation and professional requirements.[5]

Attendance/performance issues: OEM physicians may be asked to assess a worker's fitness to work in the context of attendance and/or performance management issues. The OEM physician should perform a competent, detailed and objective evaluation that may require them to seek additional medical information from the worker's other treating healthcare professionals. In some circumstances, there may be disparities between the treating healthcare professionals' opinions and that of the OEM physician. Where it is necessary for the OEM physician to discuss the matter with the treating doctor or other healthcare professional the workers' consent should be obtained first.

Communicating regarding fitness for work, workplace hazards and risks

OEM physicians have a key advisory role to individuals and groups regarding workplace and environmental hazards and the risks to worker health. This may involve communicating with relevant stakeholders, such as employers, unions and community representatives. Whether in verbal or written form, such advice should be in an easily understandable format yet sufficiently detailed to enable stakeholders to take necessary actions to protect their workers' health.

This is best achieved when the OEM physician understands the stakeholder's information needs and concerns and ensures the information provided is evidence informed. It is important to remember that OEM physicians usually act in an advisory role and should not presume deciding for others whether the risks posed by a workplace or environmental health hazard are acceptable.

Different audiences may require different communication:

- **Individuals (workers, clients, patients):**
  - OEM physicians should advise patients/clients regarding medical conditions identified during a medical assessment on the same terms as for any clinical consultation. This includes advice regarding working conditions and workplace hazards, the nature and extent of potential health risks to the individual, and how to manage these. The individual should also appreciate the OEM physician will not disclose clinical details to an employer without their consent.
  - Individual patients may be referred to the OEM physician because of concerns about health risks from potential or actual environmental exposures. The assessing OEM physician should communicate the results and discuss any necessary measures to reduce or manage their exposure to the hazard with the patient and referring doctor.
- **Employers**:
  - It is important that the employer understands OEM physician advice provided regarding individual workers will generally be limited to fitness for work, functional limitations, and workplace modifications to ensure the worker's health and safety. Clinical details should not be disclosed without the worker's consent.

- Workplace hazard advice to employers should not be limited to their nature and extent. The OEM physician should inform the employer in writing if they consider workplace conditions unsafe and should also suggest how to address such hazards based on legal requirements, the current interpretation of acceptability of risk, and best practice.

- **Treating healthcare professional**:
  - Subject to patient/client consent, OEM physicians should advise the individual's treating healthcare professional regarding the occupational health assessment results, especially if there are implications for their clinical care. In addition, it is important that OEM physicians communicate with the patient/client's treating healthcare professionals regarding the workplace environment. The OEM physician must also communicate with the workplace, for example, regarding return-to-work plans.

- **Regulators and compliance requirements**:
  - OEM physicians may be legally obliged to communicate with workers' compensation, workplace health and safety, and other government or authority departments regarding workplace hazards. In such circumstances, the OEM physician should work closely with the relevant stakeholders and advise on appropriate courses of action for hazard control.
  - In the environmental health setting, information may need to be provided to a local government authority, environment protection authority or health department. Additional considerations may include risks to children, older people, and people with co-morbid chronic diseases regarding environmental hazard impacts.

- **Public communications, including media**:
  - The OEM physician can communicate information regarding workplace hazards to wider audiences, for example, through peer-reviewed medical journals, conferences and other forums. Individual worker information should not be disclosed (or limited to deidentified aggregated data with appropriate ethical consents).
  - OEM physicians may also be asked to provide advice regarding environmental hazards to the public through community groups, media, or open or closed external meetings. This may relate, for example, to residents living in proximity to a contaminated site or a large emission release from a workplace or storage area. Although OEM physicians may advocate for action in addressing identified health risks to workers and/or the wider community it is important to maintain independence and ensure that any conflicts of interest are identified and declared while providing factual and impartial evidence informed advice. The capacity in which an OEM physician speaks should be clear, for example, as an independent subject matter expert.

Workplace medical treatment

OEM physicians may provide medical treatment to workers in the workplace for several reasons:

- First aid and emergency and/or initial treatment, with worker consent, for illness or injuries (not

necessarily work-related) that occur within the workplace. OEM physicians must have regard for the worker's usual healthcare professional.

- Ongoing care for work-related conditions. For this, OEM physicians must ensure they do not usurp the worker's usual primary healthcare professional/s. OEM physicians may also provide at-work health care for ongoing clinical conditions as advised by the worker's treating healthcare professional, for example, blood pressure monitoring, weight control and support with smoking cessation.
- In remote or isolated workplaces, an employer occupational health service may have to provide health care for non-work-related conditions. Onsite OEM physicians will need to avoid potential conflicts of interest and maintain continuity of care with the worker's treating healthcare professional.
- Where workers do not have a regular medical practitioner, it may be appropriate for OEM physicians to provide limited initial primary care within their level of competence until the patient finds one, if they choose to do so.
- Prophylactic interventions. OEM physicians may undertake immunisation programs for workplace biological hazards, such as tuberculosis, Q fever and Hepatitis B. They may also conduct travel medicine consultations that may include vaccinations and other prophylactic measures, such as those against malaria. It is good practice to keep the worker's treating healthcare professional informed for continuity of medical records purposes, subject to the worker's consent.
- Return to work management (non-compensable). OEM physicians will often become involved in the ongoing management and rehabilitation of non-compensable ill or injured workers on their return to work. Ideally, this would be undertaken with full cooperation of the worker and their usual primary healthcare professional. If this cannot be achieved, OEM physicians should endeavour to keep the treating medical or healthcare professional informed, subject to the worker's consent.

Case conferencing

Case conferencing is an activity independent of a consultation between the OEM physician and the patient/client. These should never threaten the sanctity of the doctor-patient consultation. It is only in exceptional circumstances, and with the explicit understanding and agreement of the injured or ill worker, that third parties participate in any part of a medical consultation.

Case conferencing seeks to further a patient/client's care by engaging multiple participants. AFOEM supports and encourages constructive dialogue involving other healthcare professionals to facilitate optimal outcomes for the injured, ill or disabled worker.

OEM physicians should confirm that the appropriate confidentiality requirements are met beforehand, and that each participant has a valid reason to attend based on a 'need to know' basis. Case conferencing should not discuss the patient/client's medical specifics but how the consequence(s) of their medical condition(s) can be best managed in the workplace.

Telehealth

Telehealth enables a real-time consultation with a healthcare provider through phone or video call.[6] The same good medical practice principles apply to telehealth as for face-to-face consultations.[7] There are no National Ethical Standards related to the practice of telehealth services,[8] and only limited resources on the specific ethical issues faced by healthcare professionals, and some that focus on broader issues.[9] The differences between telehealth and a face-to-face consultation must be considered, for example, in telehealth there is no physical contact, there is a different requirement for information collection, and the patient-doctor relationship dynamic is changed.

OEM physicians should be aware of the risks inherent to telehealth consultations, in particular ensuring communications are secure, private and confidential, as far as possible. OEM physicians should also consider whether timely, in-person OEM consultation services are available for the individual in their local region. In some occupational situations, OEM physicians may need to use telehealth where patients are in isolated or remote circumstances with restricted access to health advice. In such situations, physicians should do their best to meet the intent of applicable guidance. Telehealth can improve the timeliness of, and accessibility to, health care for many people. It is also an important mode for people with mobility difficulties or support worker/carer availability.

Principles to promote ethical telehealth service practice include:

- Patients receive high quality health care regardless of whether the consultation is delivered face-to-face or via telehealth. As a different medium for service delivery, OEM physicians must be competent in using the technology to reduce communication and confidence barriers with patients.
- Telehealth does not replace the option of/preference by a patient for face-to-face health care.
- The physician has a professional responsibility to respond ethically to patients, adapting to changed capacity arising out of the virtual service mode.
- Person-centred care remains a cornerstone of service provision and upholding the rights of patients. Refer to the RACP Framework for improving person-centred care and consumer engagement.
- Neither cost-cutting nor generating additional income are used as primary reasons for physicians to conduct telehealth services.[10]
- As a method of providing a medical service, the principle of ‘do no harm’ is paramount, including the risk of trauma or re-traumatising the patient.
- Patient autonomy is upheld, ie. capacity to make informed decisions.
- An equity approach to the use of telehealth is applied: equity in relation to clinical outcomes, process outcomes (care continuity, care coordination, and care quality) and patient and provider satisfaction with the service.[11]

- An individual's identity, culture and diversity are recognised in the context of health care giving.[12]
- The Australian Medical Association Code of Ethics clause 2.2.5 is applied: *Provide a telehealth service only when it is clinically appropriate, safe to do so and with the patient's consent, ensuring the patient understands and is able to balance the inherent risks or limitations associated with telehealth including risks to the privacy and security of their personal information with their preferences and needs*.
- Telehealth services should also be constructed so they align with the Australian Charter of Healthcare Rights, which describes the rights that healthcare consumers, or someone they care for, can expect when receiving health care, including digital services.

If a physical "examination" is conducted by an onsite healthcare professional during an OEM telehealth consultation, the OEM physician should be confident in their level of competency to appropriately conduct the examination.

2. Hazard Identification and Risk Assessment

Workplace assessments

Workplace assessments are a specialised skill unique to OEM physicians. Their purpose is to gather information regarding factors that may support and/or hinder the health of workers at a workplace.

Workplace assessments can range in scale from an individual work environment and assessment of work accident causation to a comprehensive understanding of complex sets of interactions between individuals and interpersonal, organisational and physical work environments. Where possible, assessments should balance the use of workplace statistics and worker inputs with individual or team inspections.

All workplace assessments require a planned approach that recognises the issues that can arise regarding consent, confidentiality, record keeping, the use of assessment reports, working in teams, conflicts of interest, including disputes regarding suspected non-compliance. A written plan from the OEM physician that covers such issues may facilitate consent and cooperation from employers, workers and other representatives.

OEM physicians should contribute to informing workers regarding the occupational and environmental hazards to which they may have been exposed. This should be done in a transparent and objective way, ensuring worker understanding. OEM physicians must have regard for a worker's level of education, cultural context, language comprehension and other relevant factors.

The risks posed by relevant workplace hazards, their control measures and the purpose and conduct of health surveillance and health monitoring programs should be discussed with workers, employers and worker representatives as part of induction and ongoing training and education. OEM physicians should also advocate with the employer for the remediation of hazards.

Alcohol and other drugs testing

Alcohol and other drugs (AOD) testing programs should include OEM physicians with specific Medical Review Officer (MRO) qualifications because of the legal and ethical issues involved, the range of adverse consequences for affected workers, and the potential for false positive test results. MROs are registered medical practitioners with expertise in:

- Substance abuse disorders and their management
- AOD testing procedures and methodologies
- Interpretation of test results, including alternative medical explanations for laboratory confirmed

test results as well issues relating to adulterated and substituted specimens
- Illicit drugs pharmacology
- Ethical and privacy issues surrounding workplace AOD testing
- Laboratory methodology and quality control
- Legislation and recommended standards regarding AOD programs
- Fitness for work and other medically related safety issues.[13]

OEM physicians should be familiar with an employer's AOD testing policies. OEM physicians have expertise to assist the employer to write related workplace policies.

Before any testing, the following should be considered and addressed because of the significant ethical and practical dilemmas for workers and employers:

- The rationale for testing
- Drug level cut-offs
- Escalation procedures regarding positive results.

OEM physicians involved in AOD testing should:

- Be guided by the ethical principles of maintaining confidentiality
- Be familiar with the testing process, the potential pitfalls, and be confident in the competency and security of the process
- Ensure AOD test samples are taken by an appropriately qualified clinician
- Be assured there is a secure chain of custody and a robust system of laboratory testing, consistent with the principles of the Australasian Medical Review Officers Association (AMROA) and AS/NZS 4308: 2024 *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine standard*, or, if relevant, AS/NZS 4760:2019 *Procedures for specimen collection and the detection and quantitation of drugs of abuse in oral fluid*.

Note: as there is no Australian/Aotearoa New Zealand Standard for hair or sweat AOD testing at the time of writing, these should only be used in limited circumstances for non-AOD purposes.

Genetic screening

With advances in identifying genetic basis there has been increasing interest in the application of these tests for pre-employment, insurance and/or superannuation purposes. Genetic screening therefore raises many scientific and ethical issues for OEM physicians.

It may be perceived that genetic screening can be applied more broadly to identify people deemed more vulnerable to developing a disease from exposure to workplace hazards and excluding them from that work, rather than reducing exposure. This fundamentally conflicts with OEM practice by shifting the focus on workplace risk reduction from the work environment to the worker. It also does not consider the extent to which disease usually results from a complex pathway with multifactorial interactions between many genes or gene sequences with variable penetration, together with a

range of lifestyle and behavioural factors and environmental exposures.

There are some specific, albeit rare, genetic clinical conditions that may increase a worker's susceptibility to certain occupational diseases: as examples, individuals with sickle cell trait may develop sickle cell anaemia if exposed to carbon monoxide or cyanide, while paraoxonase-1 testing can be used to screen agricultural workers who work with organophosphate insecticides.

OEM physicians should apply the same principles for the use of these tests as for any other medical screening tool. These include the sensitivity and specificity of the test, an acceptable positive predictive value and the need for a clear link between the genetic factor being tested and the job, either through increased susceptibility to disease or an impact on the worker's ability to undertake the job requirements. Privacy and discrimination implications are also paramount to consider.[14]

3. Health Monitoring and Surveillance

OEM physicians are engaged in developing and implementing health monitoring and health surveillance programs.

Health monitoring assesses the health of workers who are exposed to hazards, such as hazardous chemicals or other risks, in the workplace. It aims to improve safety by identifying adverse health effects as early as possible (often via statutory biological monitoring) and identify the need for additional control measures or changes in workplace practices.

Health monitoring requirements are dependent on health surveillance.

Health surveillance refers to systematically collecting, analysing, interpreting, and disseminating health-related data from a group of workers who may be exposed to certain hazards in the course of their employment. This comprises a range of activities such as pre-placement screening, non-work-related health screening or even assessing families prior to overseas placement.

Note: workplace surveillance is different and involves a comprehensive workplace evaluation to identify potential hazards and health risks.

Before health monitoring or health surveillance

OEM physicians engaged in developing and implementing health monitoring and/or health surveillance programs should clearly define and communicate the occupational health objectives, methods, procedures and potential outcomes, explaining the relevance and validity of the methods to stakeholders. The documentation should describe any potential difficulties, conflicts and costs. Priority should be given to adapting workplaces to workers, rather than excluding workers from work.

Health monitoring and health surveillance must always be carried out with the informed consent of individual workers, including the potentially positive and negative consequences of participating in these programs. Any consequences should be discussed by the OEM physician with the workers and other stakeholders as part of the consent process.

Reporting and communicating results

All personal biological monitoring test results should be explained and discussed with the worker to ensure they understand their significance. The provision of any monitoring results to third parties that could potentially identify individual workers should only be released with the individual's written consent. Deidentified group data may be provided to other relevant parties.

Health monitoring and health surveillance reports to employers and third parties regarding individual workers may include evidence informed advice regarding causation, possible risks, benefits and costs of rehabilitation, prognosis and recommendations. Any reports should only

provide information regarding an individual's work and/or functional capacity and should not contain medical or personal information without consent. The contents of the report should be discussed with the worker prior to release, and the worker should be given the opportunity to request corrections. Any disagreements regarding these should be acknowledged, discussed and documented. Where requested, second opinions should also be documented.

4. Legal and Regulatory Compliance

Conflicts of interest

"All medical (and other) decisions that refer to values or ethical contexts invoke interests of one kind or another. In the fields in which health professionals work - clinical practice, research, education, and policy development and implementation - there are always multiple interests at play. From an ethical point of view, decisions are rarely unambiguous and usually require careful analysis of values and negotiation and compromise among conflicting positions."[15]

In this guidance document, 'conflicts of interest' refers to situations that may create a perception or risk that an OEM physician's professional judgement is unduly influenced by other interests (typically expressed as bias towards the party who pays for the service). Conflicts of interest need to be identified and managed appropriately.[15] Mitigating such risks requires transparency with all parties.

"It is important to identify dualities - which include conflicting interests - in relation to actual circumstances. Disclosure alone does not resolve conflicts of interest but is the first step in identifying and managing actual conflicts of interest. Dualities should be disclosed to a relevant party for example, a committee, or council or patient - which then considers whether further action needs to be taken."[15]

Consent

Consent is the process where a worker, patient or client freely agrees to a proposed action with an understanding of what they are agreeing to. Its components are disclosure, understanding, competence and agreement.

- **Disclosure**: Most (but not all) OEM physician consultations entail patient/client referrals from third parties or the organisation employing or contracting their services. This adds an obligation on the OEM physician when obtaining consent to be transparent regarding their relationships and potential conflicts of interest with the referring party. The OEM physician should always maintain a clear understanding of their current role and ensure that all other stakeholders are also aware.
- **Understanding**: OEM physicians must inform each patient/client of the purpose, content and consequences of the consultation, and ensure that they understand and consent thereto. The patient/client should be allowed to make comments on and give feedback at each step. Depending upon circumstances, further consent may be necessary as the consultation progresses, for example, regarding physical examination.
- **Competence**: Competence to give consent must be considered where a patient/client suffers from a head injury, is intoxicated, where there is a psychiatric disability, educational, cultural language difficulties, or anything else that may limit comprehension. An interpreter must be

involved (preferably not a family member or friend) if language is a difficulty.

- **Agreement**: Patient/clients may withhold their consent at any stage of the process and cannot be compelled to proceed. They should be informed about the consequences of withdrawing consent and the procedures to follow if they do not understand, is not satisfied with, or does not consent to any part of the assessment. Refusal to proceed with the assessment should be clearly documented. Where consent is withheld, the OEM physician may offer to help find another health professional.

Patient records: access, retention, storage, disposal, retirement

Health records are a professional requirement and may be necessary for workers' compensation processes or legal purposes.

- In Australia: Ahpra is a source for relevant requirements.[16]
- In Aotearoa New Zealand: the Medical Council of New Zealand 2020 Statement guides medical practitioners on what information they should record, and for how long they should retain patients' records.[17]

OEM physicians are encouraged to maintain compliant, full, clear, accurate, factual and contemporaneous notes on each patient/client, free of gratuitous or inappropriate comments. Each entry and alteration should be signed and dated. Any hard copy records should be stored securely and confidentially, with a record tracking system if required.

OEM physicians in a shared or team practice should ensure that other healthcare professionals maintain health record confidentiality and are authorised to do so. It is recommended that an 'auditable' tracking system be established to track who has each record, to help prevent loss and identify inadvertent or deliberate leaks.

Electronic health records (EHRs) are increasing in use. Such records should be held either on a 'standalone' system or an access-controlled server. EHR systems should not be used without robust and regularly updated backup, antivirus and security software and protections. Any personal health data transferred to third parties should be encrypted between sender and recipient.

Legislation requires patient/worker health records to be retained for specified periods. Some health records may need to be kept longer, such as those for certain conditions (asbestos exposures). State and territory requirements should be checked for guidelines. An example is the NSW Fact Sheet - A guide to retention and storage of health information in NSW for private health service providers (in NSW, Victoria and ACT, records must be retained for 7 years from date of last entry, or for those under 18 until they turn 25). In Aotearoa New Zealand, the Privacy Commissioner sets the retention and disposal guidelines (which includes a requirement to retain records for 10 years from last encounter with the patient / client).[18]

In Australia, patient health records are generally owned by the provider or health facility (refer to Responding to a request to access medical records - Avant). There are a range of rights for

patients or third parties to access the information contained in the records. In Australia, the Office of the Australian Information Commissioner (OAIC) has published a Guide to Health Privacy. In Aotearoa New Zealand, the Privacy Commissioner provides a code which regulates how health agencies (such as doctors, nurses, pharmacists, health insurers, hospitals, Primary Health Organisations, Accident Compensation Corporation and the Ministry of Health) collect, hold, use and disclose health information about identifiable individuals.[19]

Once an OEM physician ceases employment, it is their responsibility to either maintain control of their records or provide them to a successor. As the situation is less clear regarding outsourced occupational health services, OEM physicians are advised to discuss the issue with their medical indemnity insurer.

Record access by OEM service employees must be strictly controlled on a 'need to know' basis. No other persons should be granted access to individual records without the affected worker's informed written consent. This includes human resource personnel and managers, and other medical practitioners who are not employed by the OEM service.

In Australia, Avant (a member owned organisation providing medical indemnity insurance) provides these guidelines Preparing for retirement - Avant and in Aotearoa New Zealand, the Medical Council of New Zealand provides these guidelines Managing patient records.

Release of medical information including mandatory release under Court Order

The privacy of medical records is an important responsibility of OEM physicians, reinforced in Australia by the Commonwealth Privacy Act (for details on how this applies to health records, see the OAIC Guide to Health Privacy) and the Medical Board of Australia's Good Medical Practice Code: A Code of Conduct for Doctors in Australia, and in Aotearoa New Zealand by the Health Information Privacy Code (HIPC), the Privacy Act 2020, the Medical Council of New Zealand Good Medical Practice and Code of Health and Disability Services Consumers' Rights. These principles are supported by the Australasian Faculty of Occupational and Environmental Medicine.

There must be a clear understanding between OEM physicians and their patient/clients regarding the release of medical information when the individual is being assessed at the request of third parties. To this end, written consent is important when the disclosure of such information may have adverse consequences for the patient/client's employment, social or personal life. The patient/client must understand that a report of their assessment will be forwarded to the third party and that they may not receive their own copy in some instances. OEM physicians must inform patients/clients that they can withdraw consent to release such reports at any time until the report has been sent.

Informed patient/client consent for OEM physician disclosure of results should ideally be obtained prior to investigations, for example, abnormalities on chest x-rays or high blood lead levels. OEM

physicians may have obligations to workplace management and/or the relevant government agencies.

There are circumstances when OEM physicians may provide information to third parties without their patient/client's consent; for example, when required by law, for statutory or court-ordered examinations, or to prevent serious harm to others. Requirements may vary in different jurisdictions. In such situations, the OEM physicians should seek advice and guidance from their professional indemnity insurer, regulatory authorities, and/or colleagues beforehand.

If an OEM physician has concerns about potential harm from mandatory release of medical records, where there is no patient consent, there are usually provisions to have an objection heard and the scope of the released documentation modified if those concerns are upheld. Any medical information released should be limited to the minimum required to facilitate decisions to address the reason(s) why its release is necessary. (Refer to the Privacy Act 1988 (Cth) in Australia and Health Information Privacy Code 2020 (HIPC) in Aotearoa New Zealand).

Workers' compensation and vocational rehabilitation

Australia has Commonwealth (for Commonwealth employees) and State/Territory workers' compensation schemes. Aotearoa New Zealand has a single national scheme. OEM physicians have an important role within these schemes and should be familiar with which they interact.

OEM physicians should encourage their clients/patients to engage with rehabilitation processes while providing objective information to rehabilitation coordinators, insurers and management regarding an individual's work capabilities, suitable duties and restrictions. This may require OEM physicians to seek the patient/client's consent to disclose information to third parties. Key RACP resources include:

- Health Benefits of Good Work®. An initiative based on compelling Australasian and international evidence that good work is beneficial to people's health and wellbeing and that long term work absence, work disability and unemployment generally have a negative impact on health and wellbeing.
- It Pays To Care. Resources that focus on work injury management to improve health and recovery outcomes and reduce barriers to care for people experiencing work injuries.

Medicolegal assessments

Independent Medical Examinations (IMEs) for workers compensation or other medico-legal purposes do not fit easily into the standard medical ethics framework. These are not part of the usual doctor-patient relationship. Rather than client/patients seeking referral themselves, IMEs are typically sought by third parties such as employers, lawyers, pension schemes or insurance companies.

Furthermore, they do not entail providing health advice to the individual, prescribing treatment

(except for emergencies), or referral to other healthcare professionals. Where the OEM physician believes an IME is necessary, a recommendation can be made to the referrer and/or the individual's treating healthcare professional stating that no traditional doctor-patient relationship has been established.

In IMEs the same principles of confidentiality, objectivity, and evidence informed medicine still apply, including the OEM physician's need to ensure that individuals are aware of the purpose of the consultation and the recipients of the report. If there is a potential conflict of interest, the OEM physician should carefully consider whether to conduct an IME in conjunction with legal advice.

Guidelines for IMEs in Australia and Aotearoa New Zealand are published by the Australian Medical Association, the Medical Board of Australia and the Medical Council of New Zealand.

IMEs may be complicated by patient/client anxiety regarding possible adverse findings in the context of legal systems. The examining OEM physician should establish a professional relationship, take time to listen to the patient/client's relevant history, manage concerns with empathy and without judgement, and clearly explain the requirements for producing an evidenced informed report that, if necessary, can be defended in court.

Reporting obligations: fitness to practice[20]

Fitness to practice medicine is the responsibility of the Medical Board of Australia and the New Zealand Medical Council.

OEM physicians may consult with other healthcare professionals to assess a medical practitioner's fitness for duties. It is important that OEM physicians are not influenced by professional relations and that they impartially assess another medical practitioner's health-related fitness.

Circumstances in which an OEM physician may be required to make a mandatory notification relating to impairment are covered in

- Australia – Ahpra and National Boards Guidelines: Mandatory notifications about registered health practitioners - Ahpra indicates that a health issue rarely needs a mandatory notification.[21]
- Aotearoa New Zealand – Health concerns about a doctor

If considering whether a mandatory notification should be made, you can consult with other colleagues, Doctors Health Services and / or your professional indemnity insurer.

Public interest disclosures

OEM physicians should ensure that, before raising issues with management or other stakeholders, they have robust evidence based on credible information. The OEM physician should escalate their concerns to the highest management level while emphasising their personal ethical and any legal responsibilities in bringing them to management's attention. If management takes no effective

action, the OEM physician may be obliged to inform the relevant government agencies, those potentially affected, and/or resign from the organisation. The OEM physician should seek advice from their professional body and/or medical indemnity organisation before raising their concerns via media.

Examples for OEM physicians may include:

- Failure to comply with statutory occupational health and safety requirements, for example, regarding lead test results, dusts and/or noise
- Product liability, for example, production of goods that may cause accidents or illness
- Illegal, unauthorised or otherwise improper waste disposal.

An unsafe workplace is one of the nine reportable conduct types included in the Australian Standard AS8004-2003 Whistleblowing Protection Programs for Entities.

OEM Trainees

OEM physicians who supervise OEM trainees are required to complete the RACP Supervisor Professional Development Program modules. It is essential that OEM trainees are not used to provide 'cheap labour' but are given every opportunity to gain the necessary breadth of experience within a reasonable timeframe for them to function as an OEM physician.

Conflicts of interest may arise when an OEM trainee's employer is also their training supervisor; for example, the trainee may be reluctant to reveal shortcomings or challenge workplace processes if there is a perception that they may be penalised. Prospective employer/supervisors and employee/trainees should be aware of the potential for such conflicts before commencing their employer/employee relationship and having processes in place to address them. AFOEM and the RACP both have processes to deal with these issues should the need arise.

Many OEM trainees also work in multiple workplaces, including competitor clinics. They must respect each employer's intellectual property by not transferring information, processes, documentation, items and so on, from one to another.

An important ethical component of OEM training relates to maintaining their personal health. The development of healthy lifestyles and improved awareness of warning signs and strategies to manage stress may translate into lifelong protective habits and resilience. Continuing professional development also provides opportunities to engage with other medical practitioners regarding this issue.

5. Education and Advocacy

Health promotion

OEM physicians are involved in the promotion and improvement of health and wellbeing in the work environment, from individual workers to workplaces to sector workforces. This is an increasingly important area because of the increasing prevalence of non-communicable diseases, including mental health problems, and the recognition of the employer role in psychosocial hazard reduction. Health promotion programs should be respectful of the diversity of workplaces. The RACP promotes the Health Benefits of Good Work® policies and practices.

- **Confidentiality**: In any program initiative, OEM physicians must preserve the confidentiality of the workers' personal health promotion data and prevent any misuse.
- **Personal interests**: OEM physicians must rely on reputable evidence-based health promotion approaches, including those that may be complementary health oriented, and refrain from promoting personal positions.
- **Avoid harm**: OEM physicians must work with workplaces to ensure health promotion programs do not carry risks of harm.
- **Oppose compulsory participation**: Participation in health promotion programs should be voluntary and OEM physicians should oppose even well-meaning compulsion by employers. While many employers offer incentives to workers to encourage their participation, care should be taken to ensure that those choosing not to participate are not unduly disadvantaged. For emergency and military service personnel the demands of their employment mean they have less autonomy regarding their participation in workplace health promotion programs. Even so, these programs should not create avoidable new injuries or exacerbate old ones, and an individual's participation should not prevent them from performing their normal duties.
- **Shaming or discrimination**: OEM physicians should also disassociate themselves from spurious health arguments that some may seek to use in discriminating against workers who engage in habits of which they disapprove. Any decision to discriminate against a worker based on behaviours/lifestyle choices, such as tobacco use, drug use, alcohol consumption, fitness level or physical size, must be based on the legitimate inherent requirements of their job and whether they specifically compromise the ability or safety of the worker or their colleagues.

Managing stakeholder relationships

The range of workplace health responsibilities of OEM physicians create complex relationships with numerous stakeholders. Stakeholders can include healthcare professionals, workplace regulators and authorities, Work Health and Safety (WHS) providers, management, unions, insurers, lawyers and a range of government and statutory agencies.

Other medical practitioners

Primary medical practitioner. All information transfers between the OEM physician and the worker's primary medical practitioner(s) requires the worker's written consent. All personal health information obtained by the OEM physician should be made available to the worker's primary medical practitioner when requested by the worker.

Referring medical practitioner. OEM physicians in private or consultant practice may see patients/clients referred by other medical practitioners. The OEM physician should aim to see these referrals promptly and provide clear, timely reports to the referring medical practitioner. The OEM physician should not assume responsibility for the individual's clinical management, unless specifically requested for a particular condition or other issue related to the worker's job.

Other healthcare professionals

OEM physicians should give due professional consideration to other healthcare professionals and provide the information needed for them to undertake their responsibilities. OEM physicians should also discuss ethical issues with the healthcare professional, especially when some have management responsibilities for an occupational health service. All occupational health service personnel share responsibility for maintaining medical record confidentiality.

Other WHS Providers

OEM physicians are typically only one of a team that establishes and maintains healthy workplaces. Exchange of information is therefore essential if the team is to be effective. OEM physicians may disclose health and safety information to occupational hygienists, safety officers, other health and safety providers and/or occupational health and safety committees. At the same time, OEM physicians should maintain confidentiality of health data and ensure that individuals cannot be identified without their consent.

Employers

Relationships between workplace management and OEM physicians can involve ethical issues. Management may employ OEM physicians directly, or as a consultant or a contractor. In such circumstances the worker-employer relationship may make it difficult for OEM physicians to be impartial advisers. The OEM physician should clarify with the employer their professional ethical obligations and principles, especially as they relate to confidentiality and disclosure, preferably before commencing potentially ethically challenging work. This should be made explicit in the OEM physician's employment or consultancy contract.

Although medical practitioners generally agree that there is an ethical imperative to put patient interests first, it may be that neither management nor workers are 'patients' in some occupational and environmental health situations, for example, when providing advice regarding the introduction of a new technology or potential hazard into the workplace. In such circumstances, OEM

physicians should ensure the health and safety of all those whose health could be impacted.

In general, unless doing so conflicts with other ethical principles, OEM physicians should respect the employer/client's corporate private information and take care not to divulge them deliberately or inadvertently when consulting elsewhere. OEM physicians should not use data belonging to a company without their knowledge and permission.

At times, management may wish to oppose or modify OEM physician recommendations. If this cannot be readily resolved, it can be useful to review the general ethical principles and to establish clearly whose needs should be served, and how best to achieve them. There may also be situations where OEM physicians should oppose management decisions that may adversely affect worker safety or health. Depending on the frequency and/or severity of the potential consequences, these should be discussed with peers, medical indemnity organisations or professional associations.

Worker representatives

OEM physicians should be prepared to discuss occupational and environmental health issues with unions and WHS representatives. They should not comment on the health of individuals without their expressed consent.

Government agencies

OEM physicians may be called upon to report information, cooperate in data collection or otherwise assist governments and other regulatory bodies regarding regulatory/statutory requirements or other standards and goals in occupational and environmental health and safety. Information provided should reflect the patient/client privacy and consent principles described elsewhere in this document.

All medical practitioners, including OEM physicians, are legally obliged to report specific diseases or conditions such as silicosis, high lead levels, and infectious tuberculosis. The OEM physician should ensure that the worker, employer, union representatives and other relevant stakeholders understand these obligations so that compliance does not undermine confidence in the OEM physician's approach to health-related workplace ethics.

Public forums

All OEM physicians have responsibilities to the community, whose interests may need to be placed ahead of individuals. In such situations, decisions should be disclosed to those impacted, including implications.

If an OEM physician participates in public debates, especially on issues of occupational and environmental health and safety, public health and environmental health, the OEM physician should clearly state their affiliations and potential conflicts of interest and offer impartial advice based on evidence informed information. The OEM physician should avoid giving credibility to

issues where scientific evidence is misrepresented or unbalanced, and/or being used to promote hazardous materials or situations. The OEM physician should not discuss the health information of individuals.

6. Research and Emerging Practice

Artificial intelligence

AFOEM encourages considered, rational community discussion and societal guidance of the scientific, ethical, social and legal considerations regarding the rapidly evolving technology of artificial intelligence (AI). Current guidance can be found on the Australian Health Practitioner's Regulation Agency website.[22]

AI has the potential to transform OEM by improving efficiency, accuracy, and personalised healthcare for workers. However, addressing challenges such as data privacy, ethics, and integration is crucial for successful implementation.[23]

OEM physicians should consider the impact of AI in terms of:[23]

- The impact generative AI may have in terms of employment and organisational wellbeing. Its introduction may cause new work hazards and psychosocial impacts due to possible worker demotion, burnout, modified the tasks and responsibilities, anxiety, stress and alienation caused by employers' increasing adoption of AI.
- The impact of generative AI on OEM physicians' daily practice. For example, the use of AI on patients' private data may pose ethical and privacy concerns about how user data is handled and stored when submitted to third-party systems. Also, AI use may lead to wrong diagnoses if used unchecked by the OEM physician.

Refer to the 2026 RACP position statement on Using AI in clinical practice and the Evolve webinar series on AI in healthcare.

OEM research

Many OEM physicians are involved in research and AFOEM trainees are required to undertake research and present a report. All research must follow ethical guidelines and seek appropriate approvals. Key reference documents on conducting ethical medical research include National Health and Medical Research Council (NHMRC) National Statement on Ethical Conduct in Human Research (Australia) and the National Ethics Advisory Committee (NEAC) National Ethical Standards for Health and Disability Research and Quality Improvement (Aotearoa New Zealand). Although OEM physicians and trainees are bound by the same ethical considerations as for any other medical and health research, there are some specific issues regarding workplaces.

These include:

- The need to gain co-operation and endorsement of workers and management, for example, by forming a research advisory committee with representatives from all relevant stakeholders.
- The research explanatory statement must clearly explain that workers must provide informed consent and retain the right to withdraw from participation at any time. Some workers may

think participation is a workplace requirement or that non-participation may adversely affect their employment, for example those in emergency and military services personnel, apprentices, and those with precarious work arrangements and/or non-English speaking backgrounds.

- Worker health information collected for research should be kept separate from all other health information.
- Abnormal test results gained from research must be conveyed to the worker, and their treating healthcare professional, subject to their consent.
- The group results of research conducted in the workplace should be reported back to the workers, advisory committee, and any other relevant stakeholders. These relevant stakeholders, such as workers' compensation authorities or other Government departments, should be identified in the initial research planning.
- Research results with implications for workplace hazard controls or other health and safety issues should be forwarded to the workplace as soon as possible, along with recommendations for necessary changes.

In addition, OEM researchers should ensure compliance with the relevant privacy and/or health records and information legislation.

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