



WESTMINSTER
DAY SURGERY
ISO 9001:2008 ACCREDITED

DAY SURGERY BY-LAWS

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FOREWORD

The By-Laws mandate the Accreditation, Credentialing, Re-accreditation process for defining and amending the Scope of Clinical Practice for Medical, Dental and Allied Health Practitioners providing services at Westminster Day Surgery. Participants of the Medical Advisory Committee and related medical and facility committees shall, in carrying out their roles, act in the best interests of Westminster Day Surgery and apply their endeavours diligently, in good faith and in accordance with the By-Laws. The By-Laws contain several requirements to assist in the process of recommending medical appointments, confidentiality, conflicts of interest and no representations of acting on behalf of Westminster Day Surgery. Comments and suggestions for improving the By-Laws should be referred to Mr. Tony Robinson, Medical Director.

The safety and quality of healthcare is dependent on the competence and expertise of the health professionals who deliver that care. It is essential that clinical governance requirements are established that scrutinise and verify the qualifications, experience and professional status of health professionals, and assess on an ongoing basis the competence, performance and professional suitability of individuals to provide high quality health care specific to the patient's needs and the Day Surgery's capability.

The delineation of an individual practitioner's scope of practice should be based on an assessment of his or her clinical specialisation and experience, according to current and nationally accepted standards for the recognition and registration of specialist medical practitioners.

Mr. Anthony Robinson

Date

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BY-LAWS

PART A; INTERPRETATION AND GENERAL PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In these By-Laws, unless inconsistent with the context:

"**ACCREDITATION**" means and refers to the process of credentialing by which a Practitioner is granted authority to provide health care services at Westminster Day Surgery.

"**ACCREDITED ALLIED HEALTH PROFESSIONAL**" means an Allied Health Professional appointed to perform services at Westminster Day Surgery.

"**ACCREDITED PRACTITIONER**" means a Medical Practitioner (also known as a Visiting Medical Practitioner) or Dentist (also known as a Visiting Dental Practitioner) appointed or employed by Westminster Day Surgery and granted Clinical Privileges. Appointment as an Accredited Practitioner under these By-Laws is a prerequisite to practice at Westminster Day Surgery.

"**ACT**" means all relevant Acts of Parliaments, State or Federal, and extends and includes all By-laws and regulations made there under and in force from time to time which is intended to cover the regulation of Private Day Surgeries.

"**AHPRA**" means the Australian health Practitioner Regulation Agency established under the health Practitioner Regulation National Law Act 2009 which came into effect on 1 July 2010.

"**ALLIED HEALTH PROFESSIONAL**" means chiropractors, dieticians, occupational therapists, pharmacists, physiotherapists, podiatrists, psychologists, radiologist or radiographer speech pathologists, social workers, rehabilitation counsellors or other categories of allied health professionals as determined by the Medical Director.

"**APPLICATION FOR ACCREDITATION FORM**" means the Application for Accreditation Forms approved for use by a Medical Practitioner, Dentist or Allied Health Professional to apply for Accreditation and Clinical Privileges at Westminster Day Surgery.

"**BY-LAWS**" means these By-Laws as amended from time to time.

"**CHIEF EXECUTIVE OFFICER**" means the person appointed as the senior executive in Westminster Day Surgery by the Medical Director and in the absence of that person shall include the person appointed to act in that position for the time being.

"**CLINICAL DEPARTMENT**" means a department or section of Accredited Practitioners in like sub-specialties, as approved by the Medical Advisory Committee in accordance with By-Law 24.

"**CLINICAL PRIVILEGES and DEFINING THE SCOPE OF PRACTICE**" means the specific medical services, surgical or dental procedures permitted to be undertaken by Accredited Practitioners.

“CREDENTIALING” means the formal process used to verify the qualifications experience, professional standing and other relevant professional attributes of an Accredited Practitioner for the purpose of forming a view about their competence, performance and professional suitability to provide safe, high quality health care services

“CREDENTIALS” means the qualifications, professional training, clinical experience current registration status, indemnity insurance, training and experience in leadership, research, education, communication and teamwork that contribute to the competence, performance and professional suitability to provide safe, high quality health care services at Westminster Day Surgery

“CLINICAL REVIEW COMMITTEE” (also known as the Medical Quality Improvement Committee) means the Clinical Review Committee described in By-law 41.

“CREDENTIALING COMMITTEE” (also known as the Accreditation Sub-committee) means the CREDENTIALING committee established pursuant to these By-Laws.

“CURRENT FITNESS” is the current fitness required of an applicant Accredited Practitioner or Allied Health Professional to carry out the clinical privileges sought or currently held. A person is not to be considered as having current fitness if that person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects or is likely to detrimentally affect the person's physical or mental capacity to practice medicine or dentistry or allied health or nursing (as the case may be) and carry out the Clinical Privileges sought or granted. Habitual drunkenness or addiction to deleterious drugs is considered to be a physical or mental disorder.

“DENTIST” has the same meaning as in the registration act for dentists in the State.

“DIRECTOR OF MEDICAL SERVICES” also known as a Medical Director

“CEO/DON/DIRECTOR OF NURSING” howsoever termed means the person appointed by the Medical Director to that position and in the absence of that person the person appointed to act in that position for the time being.

“EXECUTIVE MANAGEMENT COMMITTEE” means the Executive Committee established under these By-Laws. This is a combined committee which oversees the financial and strategic direction of Westminster Day Surgery and Waikiki Private Hospital.

“EXECUTIVE STAFF” means executive staff appointed in accordance with By-Law 5.

“FELLOW PRACTITIONER” means a Medical Practitioner not yet recognised as a specialist in their nominated category, for the purpose of the *Health Insurance Act 1973 (Comm)* but training to become a specialist in a nominated category and working in that specialty under the supervision of a Specialist Practitioner.

“GENERAL PRACTITIONER” means a Medical Practitioner registered as such in the State of Western Australia.

“HEALTH DEPARTMENT” means the Western Australia Department of Health

“DAY SURGERY” means Westminster Day Surgery subject to these By-Laws.

“GOVERNANCE COMMITTEE” means the Risk Management Committee of Westminster Day Surgery as endorsed by the Executive Committee.

"MEDICAL ADVISORY COMMITTEE" means the medical advisory committee established pursuant to these By-Laws.

"MEDICAL COUNCIL" means the medical council of accredited practitioners who have been granted clinical privileges by the Medical Advisory Committee to attend patients in the Day Surgery.

"MEDICAL PRACTITIONER" has the same meaning as in the registration act for medical practitioners in the state of Western Australia.

"NOTIFIABLE CONDUCT" has the same meaning prescribed to that term in the *Health Practitioner Regulation National Law Act 2009*.

"NURSE FIRST ASSISTANT" howsoever described means a person assisting an Accredited Practitioner in the operating theatre appointed pursuant to Part E of these By-Laws

"POLICY STATEMENTS" means and refers to policy statements and directives in relation to the conduct of Accredited Practitioners or clinical practice issued by the Day Surgery.

"PROFESSIONAL MISCONDUCT" has the same meaning prescribed to that term in the *Health Practitioner Regulation National Law Act 2009*.

"REGULATION" means a regulation made under any Act relevant to the undertaking of the business of a private Day Surgery.

"REPORTABLE CONDUCT" means any serious offence against children, as envisaged by applicable child protection legislation in any jurisdiction, including but not limited to neglect, assault, or sexual offence omitted against, with or in the presence of a child (including child pornography offences).

"SPECIALIST PRACTITIONER" means a Medical Practitioner who has been recognised as a specialist in their nominated category, for the purpose of the *Health Insurance Act 1973 (Comm)*.

"STATE" refers to the state of Western Australia in which Westminster Day Surgery operates.

1.2 GENERAL

(a) Interpretation

In these By-Laws, headings are for convenience only and do not affect interpretation. The following rules also apply in interpreting these By-Laws, except where the context makes it clear that a rule is not intended to apply.

- (i) A reference to legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.
- (ii) A reference to a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated.
- (iii) A singular word includes the plural, and vice versa.
- (iv) A word which suggests one gender includes the other gender.
- (v) If a word is defined, another part of speech has a corresponding meaning.
- (vi) If an example is given of something (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

(b) Titles

In these By-Laws where there is use of the title chairperson the incumbent of that position for the time being may choose to use whichever designation that person so wishes.

(c) Quorum / meetings

Where a reference is made to a meeting (with the exception of the Medical Council), the following quorum requirements shall apply:

- (i) Where there is an odd number of members of the committee or group, a majority of the members; or
- (ii) Where there is an even number of members of the committee or group, one half of the number of the members plus one.

A decision may be made by a committee or group established pursuant to these By-Laws (except that established by By-Law 24) without a meeting if a consent in writing setting forth such a decision is signed by all the committee or group members, as the case may be.

A committee or group established pursuant to these By-Laws may hold any meeting by electronic means whereby participants can be heard and can hear but are not necessarily in the same place. The requirements of these By-Laws shall nonetheless apply to such a meeting.

(c) **Confidentiality and privacy**

Information provided to any committee or person which is provided in confidence shall be regarded as confidential and is not to be disclosed to any third party or beyond the particular forum purposes which such information is made available. Any committee or person who is appointed under these By-Laws must comply with all relevant privacy laws.

(e) **Voting**

Where required by these By-Laws, voting shall be on a simple majority voting basis and only by those in attendance at the meeting.

2. **CHIEF EXECUTIVE OFFICER/DIRECTOR OF NURSING**

The Medical Director shall appoint a CEO/DON or CEO and DON (however determined and with changes to the role from time to time) of Westminster Day Surgery.

The CEO shall:

- (a) Be the senior officer of Westminster Day Surgery to whom all staff, through their respective department head, shall be responsible;
- (b) Be the spokesperson and channel for all communications to and from Westminster Day Surgery;
- (c) Advise the Executive Committee on matters relating to the purchase of major equipment;
- (d) Be responsible for the management and patient care of Westminster Day Surgery, its facilities, staff and resources, to acceptable standards in accordance with the policies and directives of the Executive Committee;
- (e) Ensure due observance of the Act, all other statutes, Department instructions and determinations, these By-Laws and all other legal requirements; and
- (f) Act as Secretary to the Medical Council, Medical Advisory Committee and the Credentialing Committee,
- (g) Ensure that suitable standards (including but not limited to clinical standards) are maintained to provide a satisfactory and safe environment for both patients and staff;
- (h) As required, co-operate in the planning of additional facilities and services;
- (i) Ensure availability at all times, either personally or by delegation of authority, to meet any emergency or contingency that may arise.

At such time as an additional DON is appointed this role shall report to the CEO and be responsible for:

- (j) For advice on matters of nursing and relevant clinical policies;

- (k) For ensuring that nursing staff are provided at a level that will ensure a safe and optimum level of patient care;

2A DIRECTOR OF MEDICAL SERVICES

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The Medical Director shall;

- (a) Ensure that suitable clinical standards are maintained to provide a satisfactory and safe environment for patients, visitors and staff;
- (b) Oversee the process of appointment and credentialing of Accredited Practitioners;
- (c) Ensure that medical staff are provided at a level to maintain a safe and optimum level of patient care;
- (d) Ensure compliance with the relevant statutory requirements;
- (f) Actively participate in all activities of the Executive Management Committee; and
- (g) Ensure availability at all times either personally or by the delegation of authority to meet any emergency or contingency that may arise.

3. EXECUTIVE STAFF

The CEO/DON/DON may appoint any other executive staff members he or she deems appropriate for Westminster Day Surgery including determining the role of such an appointment.

4. DAY SURGERY COMMITTEES

With the exception of the Medical Advisory Committee the CEO may establish committees to assist in the management and operations of Westminster Day Surgery. The CEO shall:

- (a) Determine the membership of a committee;
- (b) Determine the terms of reference of a committee;
- (c) Determine rights of attendance at a committee;
- (d) Determine committee voting;
- (e) Determine minimum meeting requirements; and
- (f) Determine other matters pertaining to the appropriate operation or reporting of the committee.

5. EXECUTIVE MANAGEMENT COMMITTEE

The Executive Management Committee shall be responsible for financial and strategic matters relevant to Westminster Day Surgery and Waikiki Private Hospital comprising as a minimum:

- (a) The Director of Medical Services
- (b) The CEO, Westminster Day Surgery & Westminster Day Surgery (WPH);

- (c) Director of Nursing, Westminster Day Surgery (WDS);
- (d) Director of Nursing Westminster Day Surgery (WPH)
- (e) Accountant WPH/WDS
- (f) Accounts Payable Officer, WPH, WDS

6. GOVERNANCE COMMITTEE

The Governance Committee shall be responsible for staff, operational, and clinical governance matters relevant to Westminster Day Surgery comprising as a minimum:

- (a) CEO/DON
- (b) CN Quality/Risk & Clinical
- (c) Clinical Nurse Manager
- (d) TSSU Supervisor
- (e) Health Information Manager
- (f) Administration Supervisor

PART B; APPOINTMENT OF ACCREDITED PRACTITIONERS
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7. CATEGORIES OF ACCREDITED PRACTITIONERS

Each person appointed as an Accredited Practitioner to Westminster Day Surgery shall be appointed to one or more of the following categories:

- (a) Specialist Practitioner;
- (b) General Practitioner;
- (c) Dentist;
- (d) Fellow Practitioner;
- (e) Allied Health Practitioner
- (f) Surgical Assistant

with one or more of the following privileges:

- (f) Admitting privileges;
- (h) Consulting privileges;
- (i) Assist privileges;
- (j) Anaesthetic privileges;
- (k) Operating privileges;
- (l) Diagnostic privileges.

Not all categories listed above carry admission rights. Surgical assistants, Fellow Practitioners and Allied Health Practitioners do not have the right to admit patients but may care for or treat patients admitted by other accredited practitioners with admitting rights.

7A TIER STATUS OF ACCREDITED PRACTITIONERS

The CEO may decide to implement a tier status of Accredited Practitioners at Westminster Day Surgery at any time.

8. TERM OF APPOINTMENT OF ACCREDITED PRACTITIONERS

All appointments to a position of Accredited Practitioner shall, unless otherwise

determined by the Board, be for a period of up to five years until the age of 65 and yearly thereafter with a medical certificate clearance.

9. **APPLICATION FOR ACCREDITATION AS AN VISITING MEDICAL/DENTAL OR ALLIED HEALTH PRACTITIONER**

The CEO/DON or delegate shall provide each Medical Practitioner seeking appointment with an Application for Accreditation Form that must be submitted when seeking appointment as an Accredited Practitioner. A copy of the By-Laws and any relevant material must be provided to the Medical Practitioner at time of application.

10. **CONFIDENTIALITY**

The proceedings involved in granting appointment and clinical privileges to an Accredited Practitioner are confidential and not to be disclosed outside the particular forum concerned. Such confidentiality provisions shall also apply to any confidential information and to any committee or sub-committee of Westminster Day Surgery.

11. **PROCESS OF APPLICATION FOR CLINICAL PRIVILEGES**

A Medical Practitioner seeking appointment or re-appointment as an Accredited Practitioner shall complete an Application for Accreditation Form and provide such a form to the CEO or delegate.

12. **CONSIDERATION OF APPLICATION FOR ACCREDITATION FORM**

Following receipt of a completed Application for Accreditation Form:

- (a) The CEO or delegate shall refer a duly completed Application for Accreditation Form to the Credentialing Committee.
- (b) The Credentialing Committee shall review the application and satisfy itself as to the training, experience, competence, judgment, professional capabilities and knowledge, Current Fitness, character and confidence held in the applicant and make recommendations as to the delineation of clinical privileges.
- (c) Following a determination of its recommendations the Credentialing Committee shall forward such recommendation to the Medical Advisory Committee;
- (d) The Medical Advisory Committee shall then satisfy itself as to the training, experience, competence, judgment, professional capabilities and knowledge, current fitness, character and confidence held in the applicant and make recommendations as to the appointment or re-appointment;
- (e) Following a determination of its recommendation the Medical Advisory Committee shall forward such recommendation to the Executive through the CEO;
- (f) The Medical Director shall make a final determination as to the application.

13. **NOTIFICATION OF DECISION**

Within fourteen days of arriving at its decision, the Credentialing Committee (however so titled) shall communicate its decision to the CEO who shall notify the applicant in

writing of such decision within seven days. The notification will include in the letter the scope of practice.

14. **TEMPORARY APPOINTMENT**

The CEO may approve temporary appointments of an Accredited Practitioner after referral to the chairperson of the Medical Advisory Committee. Clinical Privileges granted under this By-Law shall remain in force until the determination by the Medical Advisory Committee following the next Credentialing Committee Meeting or for a period not exceeding three months. Temporary appointment as Accredited Practitioner shall be notified in writing by the standard letter for temporary appointments.

15. **TERMS AND CONDITIONS OF APPOINTMENT**

Appointment of an Accredited Practitioner shall be conditional on the practitioner:

- (a) Complying with the provisions of the relevant Articles of Legislation, and with the By-Laws, rules and policies and procedures of Westminster Day Surgery;
- (b) Attending patients subject to the limits of any conditions imposed by the Admissions Inclusions and Exclusions Policy endorsed by the Executive, Medical Advisory and Governance Committee;
- (c) Taking all reasonable steps to ensure that adequate documentation fulfilling medico-legal requirements in the Day Surgery medical records are maintained for all patients under their care in accordance with statutory and the Day Surgery accreditation body and WA Department of Health Licensing Standards.
 - (i) Provide any data reasonably required by Westminster Day Surgery to enable the collection of revenue including but not limited to discharge summaries and CMBS item numbers or ADA codes, including prompt notification to WDS of any subsequent change or addition to the item numbers;
- (d) Observing all reasonable requests made by Westminster Day Surgery with regard to personal conduct in Westminster Day Surgery and with regard to the provision of services within the Day Surgery.
- (e) Adhering to the generally accepted ethics of professional practice both in relation to colleagues, Day Surgery staff and to patients under his/her care;
- (f) Observing the general conditions of clinical practice applicable to Westminster Day Surgery as set out in the relevant policies issued by Westminster Day Surgery from time to time;
- (g) Maintaining an adequate level of professional indemnity membership and/or insurance as approved from time to time by Westminster Day Surgery and set out in the then current Westminster Day Surgery Professional Indemnity Minimum Standards for Accredited Practitioners Guidelines with an approved medical indemnity organisation or insurer and covering the clinical privileges granted;

- (h) Furnishing annually to Westminster Day Surgery, documentary evidence of professional indemnity membership and/or insurance including the level of cover and any material changes to cover that occurred during the last 12 months and furnishing annually to Westminster Day Surgery documentary evidence of medical registration under the registration Act for medical practitioners in the state of Western Australia;
- (i) Advising Westminster Day Surgery in writing as soon as possible but no later than 14 days of the occurrence:
 - (i) Should an adverse finding be made against him / her by AHPRA; or;
 - (ii) His / her professional registration be revoked or amended; or
 - (iii) Professional indemnity membership be made conditional or not be renewed; or
 - (iv) His or her appointment or clinical privileges at any other facility, Day Surgery or day procedure centre alters in any way;
- (j) Participating in any clinical quality assurance program approved by the Medical Advisory Committee;
- (k) Adhering to the rules of medical practice established by Westminster Day Surgery including compliance with the Australian Commission of Safety and Quality in Health Care National Standards;
- (l) Advising Westminster Day Surgery if they are charged with having committed or are convicted of a sex or violence offence and providing authority to Westminster Day Surgery to conduct a criminal history check with the appropriate authorities at any time;
- (m) Not representing in any way that they represent a member of Westminster Day Surgery in any circumstances, including the use of Westminster Day Surgery letterhead, unless with the express written permission of the CEO;
- (n) Being available, or deputising an appropriately qualified Accredited Practitioner for emergency calls with the Accredited Practitioner's patients;
- (o) Participation in reasonable education activities of the staff as required particularly in relation to any junior medical staff;
- (p) Seeking the approval of the Medical Advisory Committee in regard to any substantially new or substantially amended use of technology or procedures to treat patients, or any new or amended use of technology or procedures to treat patients which may substantially increase the risk to patients;
- (q) Meeting all reasonable requests to participate in the education and training of medical and other professional nursing and technical staff of Westminster Day Surgery and, in the education and training of students attending Westminster Day Surgery including facilitating the availability of patients for clinical teaching subject to:

- (i) Any contrary instructions by either the treating practitioner; or
 - (ii) The Director of Nursing or Clinical Nurse Manager; and
 - (iii) Informed consent being given by the patient;
- (r) Regularly attend and when reasonably so required participate in such pertinent clinical meetings, seminars, lectures and other training programmes as may be organised and held at Westminster Day Surgery;
 - (s) Utilising as surgical assistants only those practitioners appointed in accordance with these By-Laws;
 - (t) Complying with any statutory regimes as required by any working with children legislation or legislation with similar objectives applicable to medical practitioners;

Responsibility for patients:

- (u) Accredited Practitioners must obtain from patients all relevant consents including:
 - (i) Explanation of treatment;
 - (ii) Consent to treatment ;
 - (iii) Informing each patient of material risks associated with treatment;
 - (iv) Appropriate consent in relation to privacy matters, including the collection, use and disclosure of health information for which consent is required;
 - (v) Appropriate consent in relation to financial matters; and
 - (vi) Other consents as required by law.
 - (vii) Where appropriate, consent must be obtained in written form signed by the patient;
 - (viii) Accept full responsibility for his or her patients from admission until discharge, or until the care of the patient is transferred to another Accredited Practitioner
 - (ix) Visit a patient within 24 hours of admission and thereafter with reasonable frequency having regard to each patient's clinical condition and needs
- (v) Complying with all laws and Day Surgery policies and procedures in relation to Infection Control, Hand Hygiene, Occupational Safety and Health, anti-discrimination, bullying and harassment.
- (w) The availability of theatre sessions will be at the discretion of the CEO and/or DON, taking into account matters including but not limited to theatre session

and nursing availability, and the usage by the Accredited Practitioner of sessions previously allocated to that Accredited Practitioner.

- (x) The right of the Accredited Practitioner to admit a patient to WDS will at all times be subject to approval by the CEO/DON. The CEO/DON will be entitled to refuse admission of any patient without giving a reason.
- (y) The CEO/DON will at all times have the right to require the transfer of a patient and will make reasonable efforts to notify the Accredited Practitioner and the patient if the transfer of the patient is required. The Accredited Practitioner will be required to assist in making all necessary arrangements for transfer of the patient, including notifying the relatives of the patient and where necessary arranging the admission of the patient to another Day Surgery or facility.
- (z) Participate in the Day Surgery Open Disclosure process in the event of a significant incident.

16. ANAESTHETICS (Excluding Local)

- (a) All patients who undergo anaesthesia must be seen by the Anaesthetist prior to the anaesthetic being administered and an ASA score completed and recorded.
- (b) Anaesthetics administered at WDS shall comply with all standards of the Australian and New Zealand college of Anaesthetists.
- (c) The Anaesthetist must be available to maintain Patient Care for 24 hours following a procedure, or ensure cover by another Accredited Anaesthetist should this be required.
- (d) The anaesthetic record must be completed appropriately and include details of:
 - (i) All drugs administered and procedure undertaken as part of the anaesthetic
 - (ii) The patient's condition and observations during the anaesthetic
 - (iii) Any special post anaesthetic observations and care required and include a contact telephone number in the event of any complication and concern.

17. APPEAL RIGHTS

- (a) There shall be no right of appeal against a decision not to make an initial appointment.
- (b) Should an applicant holding a current appointment have that appointment rejected either in whole or in part or varied by the Executive, the applicant shall have the rights of appeal set out within these By-Laws under By-Law 21.

18. AMENDMENT OF PRIVILEGES

- (a) Any Accredited Practitioner, at any time, may make application for amendment of his/her Clinical Privileges.

- (b) The CEO shall cause any such application to be forwarded to the Credentialing Committee.
- (c) The Credentialing Committee shall give such application appropriate consideration and make a recommendation to the Medical Advisory Committee of Westminster Day Surgery as to the amendments sought.
- (d) The Executive Committee shall then consider the relevant recommendations concerning the application and, on reaching its decision, it shall within fourteen days, communicate its decision to the CEO who shall in turn advise the Accredited Practitioner of such decision within seven days.

19. REVIEW OF CLINICAL PRIVILEGES

The Executive Committee or Medical Director may:

- (a) At any time, direct the Credentialing Committee through the CEO, to review the Clinical Privileges previously granted to an Accredited Practitioner including an assessment if necessary of Current Fitness and confidence held in such an appointee and following such review, the Credentialing Committee, via the Medical Advisory Committee and the CEO/DON, shall make a recommendation to the Medical Director concerning the continuation, amendment, suspension or revocation of those clinical privileges; or
- (b) Require an independent review of the Clinical Privileges, practice or appointment of any Accredited Practitioner. The report of such a review may include an assessment if necessary of Current Fitness and confidence held in such an appointee and such a review may concern the continuation, amendment, suspension or revocation of Clinical Privileges. Such a review process shall be to the Executive Committee who shall make a final determination in relation to the matter, subject to the provisions of By-Law 21.

20. SUSPENSION

The Medical Director may, following consultation with the Chairperson of the Medical Advisory Committee, suspend any Accredited Practitioner should the CEO of Westminster Day Surgery believe it is in the interests of patient care or safety or if the CEO believes the conduct of the Accredited Practitioner is such that it is unduly hindering the efficient operation of the Day Surgery at any time. The CEO shall notify the Accredited Practitioner of his/her decision including reasons why the Clinical Privileges have been suspended or revoked. The affected Accredited Practitioner shall have the rights of appeal established by these By-Laws.

21. APPEAL PROCEDURE

- (a) An Accredited Practitioner shall have fourteen (14) days from the date of notification of a decision not to re-appoint the practitioner as an Accredited Practitioner or against a decision altering the Clinical Privileges of the Accredited Practitioner to lodge an appeal against the decision. Such an appeal must be in writing.
- (b) The Medical Director shall nominate a Committee ("**the Appeal Committee**") to hear the appeal. The Appeal Committee shall comprise:
 - (i) A nominee of the Executive Committee;

- (ii) A nominee of the Medical Advisory Committee; and
 - (iii) A nominee of the appropriate professional college of the appellant.
- (c) The chairperson of the Appeal Committee shall be the nominee of the Executive Committee.
 - (d) The appellant shall be provided with appropriate notice by the Appeal Committee and have the opportunity to make a submission to the Appeal Committee.
 - (e) The Appeal Committee shall determine whether the submission shall be in writing or in person or both. The appellant must provide written submissions for the Appeal Committee within 3 months of request.
 - (f) Neither the appellant nor any party shall have legal representation at any meeting of the Appeal Committee.
 - (g) The chairperson of the Appeal Committee shall determine any question of procedure for the Appeal Committee.
 - (h) The Appeal Committee shall make a written recommendation to the Medical Director who shall consider such a recommendation and make a decision thereon. The final decision of the Medical Director shall be binding.

22. **TERMINATION OF APPOINTMENT**

- (a) An appointment shall be immediately terminated should an Accredited Practitioner cease to be registered.
- (b) An appointment shall be terminated should an Accredited Practitioner become permanently incapable of performing his/her duties which shall for the purposes of these By-Laws be a continuous period of six months incapacity.
- (c) An appointment shall be terminated should the Accredited Practitioner not be regarded by the Medical Director as having the appropriate Current Fitness to retain the Clinical Privileges granted or the Medical Director does not have confidence in the continued appointment of the Accredited Practitioner. For the avoidance of doubt, confidence in the continued appointment of the Accredited Practitioner includes, but is not limited to, confidence in the clinical ability and the professional judgment of the Accredited Practitioner to treat patients in accordance with the opinion widely held by a significant number of respected practitioners in the field or if members of the Medical Advisory Committee would have the confidence to be treated themselves or have members of their family treated by the Accredited Practitioner.
- (d) The appointment of an Accredited Practitioner may at any time be suspended or terminated by the Medical Director where:
 - (i) The Accredited Practitioner fails to observe the terms and conditions of his/her appointment including failure to maintain adequate Professional Indemnity Insurance; or

- (ii) The Accredited Practitioner is found guilty of professional misconduct or unprofessional conduct (however described) by AHPRA which has resulted in suspension or restriction in practice.
 - (iii) The Accredited Practitioner is convicted of a sex or violence offence or any offence in relation to the Accredited Practitioner's practice as a Medical Practitioner or Dentist; or
 - (iv) An independent review has been conducted of the Accredited Practitioner pursuant to By-Law 19(b) and following review of any such report of that review the Board does not have confidence in the continued appointment of the Accredited Practitioner.
- (e) The appointment of an Accredited Practitioner shall be terminated as otherwise provided in these By-Laws.
- (f) An Accredited Practitioner may resign his/her appointment after the expiry of one month after the giving of notice to Westminster Day Surgery, unless agreed otherwise by the Medical Director.

PART C;	MEDICAL COUNCIL, MEDICAL ADVISORY COMMITTEE, CREDENTIALING COMMITTEE
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23. **MEDICAL COUNCIL**

- (a) All Accredited Practitioners appointed to Westminster Day Surgery shall be members of the Medical Council.
- (b) The objectives of the Medical Council shall be:
 - (i) To provide a forum for communication between the Executive Committee, Day Surgery and Accredited Practitioners to facilitate the safe provision of patient medical and dental services;
 - (ii) To elect a chairperson and deputy chairperson to act on behalf of the Accredited Practitioners between normal meetings of the Medical Council;
 - (iii) To elect or endorse the nominated medical members of the Medical Advisory Committee pursuant to By-law 24 (b); and
 - (iv) To elect or endorse the medical members to Westminster Day Surgery committees requiring medical membership.

24. **MEETINGS OF MEDICAL COUNCIL**

- (a) The Medical Council shall hold a bi-annual general meeting (ie every 2 years).
- (b) In accordance with these By-Laws the Medical Council shall appoint from amongst its members a Medical Advisory Committee which shall comprise at least four Accredited Practitioners including:

- (i) At least one from each of the major specialty groups of Westminster Day Surgery (the major specialty groups of Westminster Day Surgery shall be determined by the Medical Director and the CEO); or
- (c) Only active members of the Medical Council shall be eligible to vote and stand for office for the Medical Council, Medical Advisory Committee or any office bearer or committee position. An active member of the Medical Council means an Accredited Practitioner who utilises Westminster Day Surgery on a regular basis as determined by the CEO on the basis of an assessment of activity over the prior 6 month period and:
 - (i) Shall for an anaesthetist or proceduralist be regarded as a regularly allocated and used operating list per fortnight; or

Such determination shall take into account normal conference, holiday and sick leave.

- (d) The Medical Council shall also elect at such general meeting the chairperson and deputy chairperson who shall hold office until the next succeeding annual meeting. The chairperson and deputy chairperson, together with the Medical Director shall be known jointly as the Medical Executive. Should a vacancy occur in the position of chairperson or deputy chairperson it shall be filled by an Accredited Practitioner elected by the Medical Advisory Committee from amongst the members of the Medical Advisory Committee until the next meeting of the Medical Council, at which a replacement shall be elected.
- (e) No office bearer of the Medical Council nor any of its members shall represent in any way that they represent any member of the Westminster Day Surgery in any circumstances unless with the express written permission of the CEO. Facility letterhead shall only be used for official purposes and not for any other purposes.

25. CHAIRPERSON OF MEDICAL COUNCIL

- (a) No person shall hold office as the chairperson of the Medical Council for a period exceeding four consecutive years, unless expressly approved in writing by the Executive Committee. This limitation applies to any person holding the office at the time of the commencement of these By Laws in 2008.
- (b) It shall be the duty of the chairperson of the Medical Council to also act as Chairperson of the Medical Advisory Committee so as to:
 - (i) Provide for effective communication and representation of the opinions, policies, reports, concerns and needs of the Accredited Practitioners to the Day Surgery;
 - (ii) Preside at, and be responsible for, the agenda of all meetings of the Medical Council, Medical Advisory Committee; and
 - (iii) Facilitate the Medical Advisory Committee reviewing and ratifying medical practice policies or rules of Westminster Day Surgery as they affect Accredited Practitioners.

26. DEPUTY CHAIRPERSON OF MEDICAL COUNCIL

- (a) No person shall hold office as the deputy chairperson of the Medical Council for a period exceeding four consecutive years, unless expressly approved in writing by the CEO. This limitation applies to any persons holding the office at the time of the commencement of these By-Laws in 2008.
- (b) It shall be the duty of the deputy chairperson to perform such duties as may be assigned to him or her by the Medical Council and the Medical Advisory Committee as the case may be.

27. MEETINGS OF THE MEDICAL COUNCIL - ORDINARY MEETINGS

- (a) Ordinary meetings of the Medical Council shall be held as required. The meetings shall be held at a time and place to be determined by the Medical Executive in conjunction with the CEO provided that at least 14 days written notice of the meeting is given to members of the Medical Council specifying the business to be transacted.
- (b) The quorum of the Medical Council for all purposes shall be the number of the active members of the Medical Council present in person at an ordinary meeting as determined by the Medical Executive from time to time, taking into consideration the size of the Medical Council, provided that the quorum shall comprise no less than 3 of the active members of the Medical Council present in person at an ordinary meeting.
- (c) A special meeting of the Medical Council may be called by the chairperson of the Medical Council subject to the approval by the CEO.
- (d) At least 7 days notice of a special meeting shall be given in writing to all members of the Medical Council entitled to attend such a meeting.

28. TIMING OF ANNUAL GENERAL MEETING

Annual General Meetings of the Medical Council shall be held once in two calendar years.

29. NOTICE OF ANNUAL GENERAL MEETING

Written notice of the Annual General Meeting of the Medical Council, together with a copy of the agenda for that meeting, shall be given not less than 14 days prior to the date of the meeting.

30. PROCEEDINGS AT ANNUAL GENERAL MEETING

- (a) Entitlement to vote at meetings of the Medical Council is given, under the By-Laws, only to those with current accreditation at Westminster Day Surgery who are in attendance at a meeting of the Medical Council and satisfying the requirements of By-Law 25(b). There shall be no proxy vote.
- (b) All questions shall be decided by a show of hands, or where demanded, by a member entitled to vote, a ballot and the chairperson of the Medical Council shall have a casting vote.

- (c) Minutes of all meetings of the Medical Council shall be recorded by the CEO or delegate.
- (d) Minutes shall be distributed to all those entitled to attend meetings of the Medical Council prior to the next meeting.
- (e) No business shall be considered at a meeting of the Medical Council until the minutes of the previous meeting have been confirmed or otherwise disposed of.
- (f) Minutes of a meeting shall be confirmed by resolution and signed by the Chairperson at the next meeting and minutes so confirmed and signed shall be taken as evidence of proceedings thereat.

31. **MEDICAL ADVISORY COMMITTEE**

The Medical Advisory Committee shall comprise in addition to those members appointed pursuant to By-Law 24(b), the Medical Executive, and the CEO. The Medical Advisory Committee appointed pursuant to By-Law 24 (a) are elected for a 2 year period from the conclusion of the annual general meeting of the Medical Council at which they are appointed until the conclusion of the annual general meeting of the Medical Council in 2 years time. Each year, a ballot will be held for half of the members of the Medical Advisory Committee appointed pursuant to By-Law 24 (a). All members of the Medical Council who are entitled to vote are eligible to vote for nominees of the Medical Advisory Committee in all specialist categories. No member of the Medical Advisory Committee appointed under By-law 24 (a) shall serve for more than 3 consecutive 2 year terms.

32. **RESIGNATION FROM MEMBERSHIP OF MEDICAL ADVISORY COMMITTEE**

Any member of the Medical Advisory Committee may resign from such membership by giving at least one month's notice in writing of their intention to resign such appointment to the CEO.

33. **POWER TO CO-OPT**

The Medical Advisory Committee may co-opt the services of any other person should it consider this necessary, however, that person or persons shall have no voting rights at any meeting of the Medical Advisory Committee or any sub-committee thereof.

34. **ROLE OF MEDICAL ADVISORY COMMITTEE**

The Medical Advisory Committee shall advise the CEO and:

- (a) Be the formal organisational structure through which the views of the Accredited Practitioners of Westminster Day Surgery shall be formulated and communicated;
- (b) Provide a means whereby Accredited Practitioners can participate in the policy making and planning processes of Westminster Day Surgery as relevant;
- (c) Plan and manage a continuing education program relevant to Westminster Day Surgery for members of the Medical Council as appropriate;

- (d) Advise the CEO of appropriate policies regarding the clinical organisation of the Facility;
- (e) Assist in identifying health needs of the community and advise the Executive Committee (via the CEO and/or Medical Director) on appropriate services which may be required to meet these needs;
- (f) Participate in the planning, development and implementation of quality improvement programs at Westminster Day Surgery;
- (g) Endeavour to ensure that the delivery of patient care in Westminster Day Surgery is maintained at an optimal level of quality and efficiency given the resources available;
- (h) Ensure that a formal mechanism for review of clinical outcomes and management is established and perform such a function in accordance with the requirements of these By-Laws;
- (i) Consider applications for appointment and re-appointment to the Accredited Practitioners of Westminster Day Surgery and give due consideration to the training, experience, competence, judgment, professional capabilities and knowledge, Current Fitness, character and confidence held in any applicant for Accredited Practitioner and make recommendations thereon to the Executive Committee;
- (j) Review the recommendations of the Credentialing Committee for the delineation, kind and extent of Clinical Privileges that should be granted to the applicant for appointment or re-appointment as an Accredited Practitioner and make a recommendation thereon to the Executive Committee;
- (k) Review the recommendations of the Credentialing Committee as to applications by an Accredited Practitioner for the amendment of his or her Clinical Privileges and following due consideration make a recommendation thereon to the Medical Director as to the amendments sought;
- (l) Review the recommendations of the Credentialing Committee in respect of the amendment or revocation of the current Clinical Privileges of an Accredited Practitioner, where the Medical Director has directed the Credentialing Committee examine and investigate such Clinical Privileges, and make a recommendation thereon to the Medical Director; and
- (m) Review any new or amended use of technology or procedures to treat patients, assessing the facilities of Westminster Day Surgery and other matters which are considered relevant, and make a recommendation on the amendment of the Clinical Privileges of an Accredited Practitioner.
- (n) Ensure the clinical review monitoring and assessment activities are appropriate to Westminster Day Surgery;
- (o) Ensure Westminster Day Surgery quality improvement activities satisfy applicable quality assurance statutory requirements including compliance with the Australian Commission of Safety and Quality in Health Care National Standards;

- (p) Make recommendations to the Medical Advisory Committee in respect of the clinical quality of care arising from quality improvement activities in order to ensure appropriate action is undertaken;
- (q) Review reports on clinical review and quality improvement activities undertaken;
- (r) Review the action taken by the Clinical specialties regarding the clinical review and quality assurance activities;
- (s) Develop and maintain an adequate clinical review and quality improvement program in liaison with the Quality & Risk Manager for an ensuing 12 month period;
- (t) Make recommendations to the Medical Advisory Committee regarding ongoing overall management of clinical review and quality improvement at Westminster Day Surgery;
- (u) Review the results of the clinical indicator program and take the appropriate action in respect of these results;
- (v) Review unplanned transfers in and out of Westminster Day Surgery, returns to theatre and sentinel events;

35. **MEETINGS OF MEDICAL ADVISORY COMMITTEE**

- (a) Ordinary meetings of the Medical Advisory Committee shall be held not less than four times a year at a time and place to be determined by the chairperson in consultation with the CEO provided that at least 14 days notice shall be given of every ordinary meeting.
- (b) Meetings of the MAC shall be held subsequent to the Credentialing Committee to review and endorse acceptance of accreditation and reaccreditation as tabled at the Credentialing Committee.
- (c) A special meeting of the Medical Advisory Committee may be called by the Chairperson of the Medical Advisory Committee subject to the approval of the CEO.
- (d) At least 7 days notice of a special meeting shall be given to all members of the Medical Advisory Committee entitled to attend such a meeting.
- (e) Notice of a special meeting shall specify the business to be considered and no business of which such notice has not been given shall be considered at such a meeting.
- (f) Should there be an emergency situation at any time in which it is necessary to obtain the advice of the Medical Advisory Committee the CEO in consultation as necessary with the Medical Executive shall be empowered to undertake such appropriate action for later consideration by the Medical Advisory Committee.
- (g) No office bearer of the Medical Advisory Committee nor any of its members or subcommittees shall represent in any way that they represent Westminster Day

Surgery in any circumstances unless with the express written permission of the CEO. Facility letterhead shall only be used for official purposes and not for any other purposes.

36. PROCEEDINGS OF MEDICAL ADVISORY COMMITTEE

- (a) Entitlement to vote at meetings of the Medical Advisory Committee is given under these By-Laws to the Accredited Practitioner members of the Committee.
- (b) All questions, excepting as otherwise provided in these By-Laws, shall be decided by a show of hands, or where demanded by a member entitled to vote, a ballot and the chairperson of the Medical Advisory Committee shall have a casting vote.
- (c) Minutes of all meetings of the Medical Advisory Committee shall be recorded by the CEO or delegate.
- (d) Minutes shall be distributed to all those entitled to attend meetings of the Medical Advisory Committee prior to the next meeting.
- (e) No business shall be considered at a meeting of the Medical Advisory Committee until the minutes of the previous meeting have been confirmed or otherwise disposed of. No discussion of the minutes shall be permitted except as to their accuracy.
- (f) Minutes of a meeting shall be confirmed by resolution and signed by the Chairperson at the next meeting and minutes so confirmed and signed shall be taken as evidence of proceedings thereat.

37. CREDENTIALING COMMITTEE

The Credentialing Committee shall comprise of:

- (a) The Medical Executive;
- (b) At least one representative of each of the Clinical Specialties of anaesthetics, endoscopy and surgery (or if not at least 3 Accredited Practitioners appointed annually by the Medical Council); and

38. ROLE OF CREDENTIALING COMMITTEE

The Credentialing Committee shall make recommendations to the Medical Advisory Committee. The duties of the Credentialing Committee shall be to:

- (a) Develop criteria, plan and manage a program for the delineation of Clinical Privileges where required by the Medical Director;
- (b) Consider applications for appointment and re-appointment to the Accredited Practitioners of Westminster Day Surgery and give due consideration to the confidence held in any applicant for Accredited Practitioner and make recommendations thereon to the Medical Advisory Committee;
- (c) Recommend to the Medical Advisory Committee the delineation of Clinical

Privileges commensurate with the training, experience, competence, judgment, professional capabilities and knowledge, Current Fitness, character and confidence held in the applicant for appointment or re-appointment as an Accredited Practitioner;

- (d) Where so directed by the Medical Advisory Committee and / or Medical Director (or delegate), investigate the demonstrated knowledge and skill, Current Fitness and confidence held in each applicant for appointment or re-appointment as an Accredited Practitioner. Following such due consideration, recommend to the Medical Advisory Committee and / or Medical Director the kind and extent of Clinical Privileges that should be granted to the Accredited Practitioner;
- (e) Consider applications by an Accredited Practitioner for the amendment of his scope of practice and/or Clinical Privileges and following due consideration make a recommendation to the Medical Advisory Committee as to the amendments sought; and
- (f) Where so directed by the Medical Director examine and investigate the current Clinical Privileges of an Accredited Practitioner and, following due consideration and taking into account the facilities and supporting services available, make a recommendation to the Medical Director, via the Medical Advisory Committee and CEO, concerning the amendment or revocation of those privileges.

39. MEETINGS AND PROCEEDINGS OF THE CREDENTIALING COMMITTEE

The requirements for meetings and proceedings for the Credentialing Committee will be the same as those provided in By-Law 1.2 and as provided for the Medical Advisory Committee in By-Laws 35 and 36.

40. QUALIFIED PRIVILEGE

Qualified Privilege under the relevant State legislation may only be sought with the prior approval of the Medical Director. No other committee or sub-committee of Westminster Day Surgery shall seek any such statutory immunity or approval unless with the prior approval of the Medical Director.

PART D;	GENERAL PROVISIONS
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41. CONFLICT OF INTERESTS

- (a) A member of any Day Surgery committee or a person authorised to attend any committee meeting who has a direct or indirect pecuniary interest, a conflict or potential conflict of interest or a direct or indirect material personal interest:
 - (i) In a matter that has been considered or is about to be considered at a meeting such a member or person shall not participate in the relevant discussion or resolution of any such interest or matter nor shall such a person be eligible to hold any office whilst any such interest exists; or
 - (ii) In a thing being done or about to be done by Westminster Day Surgery, shall as soon as possible after the relevant facts have come to the person's knowledge, disclose the nature of the interest at the meeting.

- (b) A disclosure by a person at a meeting of the committee that the person:
 - (i) Is a member, or is in the employment of the specified company or other body;
 - (ii) Is a partner, or is in the employment, of a specified person; or
 - (iii) Has some other specified interest relating to a specified company or other body or a specified person;

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

- (c) A person who holds a financial interest in Westminster Day Surgery shall not be regarded as having a conflict of interest.
- (d) The committee shall cause particulars of any disclosure made under By-Laws to be recorded and declared by the member or authorised person in writing and addressed to the CEO.
- (e) The chairperson of the committee shall advise the CEO of any disclosure made pursuant to this By-Law.
- (f) The CEO and chairperson of the committee shall make a determination in relation to the disclosure of an interest pursuant to this By-Law. Such determination may, but is not limited to, include making a determination that the member or person will not participate in the meeting when the matter is being considered or that the member or person will not be present while the matter is being considered at the meeting.
- (g) Subject to the purposes of this By-Law, the fact that a member of the Medical Advisory Committee is a member of a particular discipline shall not be regarded as a direct or indirect pecuniary interest, a conflict or potential conflict of interest or a direct or indirect material personal interest, if that committee member participates in the appointment process of an Accredited Practitioner in the same discipline.

42. **MEDICAL TREATMENT OF FAMILY MEMBERS:**

- (a) Accredited practitioners wishing to provide medical treatment to an immediate family member, must seek approval from the Director of Nursing.
 - (i) This includes the practitioners spouse or partner, parents, children, siblings, grandparents and grandchildren.

43. **NEW INNOVATIVE TREATMENT**

New Innovative Treatment or Techniques

- (b) Should experimental or innovative treatment or techniques be planned in or at the Day Surgery such experimental or innovative treatment or technique shall only commence if:

- (i) It is to be carried out by an Accredited Practitioner with appropriate Credentialing and Clinical Privileges granted in accordance with these By-Laws to cover the experimental or innovative treatment or technique; and
- (ii) Such practitioner has submitted details to Westminster Day Surgery Medical Advisory Committee and the Executive Committee for review and the approval of both committees has been given and the Executive Committee is satisfied that appropriate insurance cover is in place.

If in addition the proposed experimental or innovative treatment or technique may raise ethical issues or the involvement of human subjects, such experimental or innovative treatment or technique shall only commence if approved by the Curtin Ethics Committee (however so titled) in accordance with NHMRC Guidelines and such experimental or innovative treatment or technique is conducted in accordance with any approvals provided by that committee.

44. DISPUTES

Any dispute or difference which may arise as to the meaning or interpretation of these By-Laws or as to the powers of any committee or the validity of proceedings of any meeting shall be determined by the Executive Committee.

45. REVISION

The Executive Committee may after due consultation from time to time make, vary or revoke these By-Laws but they will be reviewed at least every three years after due consultation with the Medical Advisory Committee.

PART E: APPOINTMENT OF ALLIED HEALTH PROFESSIONALS AND NURSE FIRST ASSISTANTS
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46. APPOINTMENT SUBJECT TO ADEQUATE INSURANCE

Prior to the appointment of an applicant pursuant to Part E of these By-Laws, the insurance cover held by the applicant must be referred to the CEO for consideration. The application shall only be considered if the CEO is satisfied that the insurance cover held by the applicant is adequate.

47. APPOINTMENT

The appointment of Allied Health Professionals and Nurse First Assistants shall follow the same processes established for Medical Practitioners and Dentists seeking appointment as Accredited Practitioners.

- (a) "Accredited Allied Health Professional" or "Nurse First Assistant", as appropriate, being deemed to apply where the definition of "Accredited Practitioner" is stated therein;
- (b) "Allied Health Professional" or "Nurse First Assistant", as appropriate, being deemed to apply where the definition of "Medical Practitioner" or "Dentist" is stated therein; and

- (c) "Allied Health / Nurse First Assistant Application Form" being deemed to apply where the definition of "Application for Accreditation Form is stated therein.

48. REVIEW OF APPOINTMENT

The CEO/DON and/or Executive Committee may review the appointment of an Accredited Allied Health Professional or Nurse First Assistant at any time.

49. DAY SURGERY POLICY

Westminster Day Surgery shall determine a policy as to whether Westminster Day Surgery employs or appoints nurse first assistants generally or specifically as the needs arises.