

Complete Title:

**Fundamental Conditions of Appointment
for Clinical Faculty related to CPSO Licensure,
Malpractice Insurance and Hospital Privileges
(where applicable) and Procedures for
Suspension, Termination, or Removal**

SPS A12

Approved by:

**Senate
Board of Governors**

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**Dean and Vice-President (Faculty of Health
Sciences)**

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University Secretariat

DISCLAIMER: *If there is a Discrepancy between this electronic policy and the written copy held by the policy owner, the written copy prevails*

POLICY

This Policy ensures that the standards expected of Clinical Faculty in the Faculty of Health Sciences ("FHS") are upheld at all times. Clinical Faculty serve as role models of professional and ethical behaviour for medical students, residents and clinical fellows; and, therefore, any absence of a licence to practise medicine, malpractice insurance or hospital privileges (when required) is not acceptable.

DEFINITION OF CLINICAL FACULTY

In this context, Clinical Faculty members in the Faculty of Health Sciences ("FHS") are defined as physicians who hold a full-time academic appointment, or a part-time or visiting academic appointment at McMaster University, a licence to practise medicine, and usually hold a medical staff appointment and privileges at a fully affiliated academic hospital, a partially affiliated community teaching hospital or a community agency. This policy does not apply to full-time faculty who have no clinical activities or those non-MD faculty who may have patient care responsibilities in the hospital sector but do not hold a licence to practise medicine (i.e., PhD lab scientists, midwives, nurse practitioners, occupational therapists, physiotherapists or other allied health professionals).

FUNDAMENTAL CONDITIONS OF APPOINTMENT

The academic appointment of Clinical Faculty members is conditional upon maintaining a valid licence to practise medicine in Ontario from the College of Physicians and Surgeons of Ontario ("CPSO"), maintaining medical malpractice liability insurance acceptable to the Faculty of Health Sciences, and, where appropriate, holding a medical appointment and privileges in a fully affiliated academic hospital, a partially affiliated

community teaching hospital, or at a community agency. These fundamental conditions of appointment are a necessary prerequisite to the academic appointment and are specified in the initial letter of appointment. Failure to fulfill these conditions will result in the termination or removal of the faculty member.

AUTHORITY AND JURISDICTION

Clinical Faculty who hold full-time academic appointments are governed by the McMaster University Revised Policy and Regulations with Respect to Academic Appointment, Tenure and Promotion (2012) (henceforth referred to as the Tenure & Promotion Policy).

Clinical Faculty who hold part-time or visiting academic appointments are governed by SPS A4 – Procedures for Other Appointments within the Faculty of Health Sciences (henceforth referred to as *SPS A4*).

The above policies set out the requirement to maintain a licence to practise medicine from The College of Physicians and Surgeons of Ontario, acceptable malpractice liability insurance, and a medical staff appointment and privileges at an affiliated hospital(s) or a community agency as specified at the time of initial appointment.

If these requirements are not fulfilled by the Clinical Faculty member, they will be suspended, terminated, or removed from their academic appointment in accordance with the procedures set out below.

COMMUNICATION OF FUNDAMENTAL CONDITIONS

These fundamental conditions of appointment for Clinical Faculty are clearly communicated in initial appointment and reappointment letters using the following text:

Your University appointment is conditional upon maintaining a valid licence to practise medicine in Ontario, holding a medical staff appointment and privileges at the specified hospital(s), and maintaining malpractice liability insurance with the Canadian Medical Protective Association or equivalent coverage. You are obligated to notify the Chair of your academic department if these standings change. Failure to fulfill these conditions will result in termination or removal as a member of faculty.

For full-time appointments, these conditions are conveyed in the preliminary offer of academic appointment and in the President's offer of appointment. For part-time academic appointments, these conditions are conveyed in the application for appointment and in the Dean's letter of appointment. For visiting appointments, these conditions are conveyed in the Dean's letter of appointment. For those Clinical Faculty members who are not required to hold a medical staff appointment and privileges, this exception will be explicitly stated in their appointment letter.

DUTY TO NOTIFY

Clinical Faculty have a professional and contractual obligation to inform the University of any change in their CPSO licensure, their malpractice insurance coverage and/or their hospital privileges. Failure to notify the University of any change in their standing is considered professional misconduct and grounds for removal.

VALIDATION OF CPSO LICENSURE

The FHS Administration validates the CPSO licence upon the initial appointment of all newly appointed clinical faculty, prior to granting of CAWAR or Tenure status to full-time appointees and prior to granting appointment or reappointment to part-time appointees.

VALIDATION OF HOSPITAL PRIVILEGES AND MALPRACTICE INSURANCE

Hospital privileges are validated at the time of the initial faculty appointment. Malpractice liability insurance is a condition of hospital privileges and is validated annually by the hospital as part of the annual reappointment to the medical staff. Procedures exist whereby the affiliated teaching hospital will inform FHS if the hospital appointment is terminated.

DUTY TO ACT

The CPSO has a duty to protect the public interest and to regulate the practice of medicine. To this end, the CPSO licenses individual physicians to practise medicine and expects adherence to the highest ethical standard of professional conduct. In its absence, the CPSO can, and does, suspend, restrict or revoke a physician's licence to practise. In these circumstances, the CPSO automatically informs hospitals, medical schools and other agencies of its disciplinary actions. When the CPSO informs the FHS Dean and Vice-President of any suspension, restriction or revocation of a physician's licence to practise medicine, there is a duty to act. This notification is provided on a regular monthly basis and is simultaneously communicated by the CPSO to the Dean and Vice-President and to the Manager of Faculty Relations. Upon receipt of the CPSO notification, the Manager of Faculty Relations cross-references the identified physician with the FHS appointment database, and, if the individual is a Clinical Faculty member, notification is provided to the relevant Department Chair so action can be taken where deemed appropriate (see below).

REVOCAION OF CPSO LICENSURE– PART-TIME CLINICAL FACULTY

In the event that a part-time Clinical Faculty member's licence to practise medicine is revoked, surrendered or expired, the faculty member will be removed from the academic appointment. For part-time Clinical Faculty, the removal will be immediate by decision of the Dean and Vice-President, FHS since a fundamental condition of appointment has been breached. The Dean and Vice President, FHS will notify the part-time Clinical Faculty member by courier to their last known mailing address on record at the University that they have been removed from their academic appointment, effective as of the date of revocation of the CPSO licensure.

REVOCAION OF CPSO LICENSURE– FULL-TIME CLINICAL FACULTY

In the event that a full-time Clinical Faculty member's licence to practise medicine is revoked, surrendered or expired, the Dean and Vice-President, FHS will recommend to the President that the full-time Clinical Faculty member be removed from their academic appointment, in accordance with Section VI: Tenure and Promotion Policy.

SUSPENSION OF CPSO LICENSURE – PART-TIME CLINICAL FACULTY

In the event that a part-time Clinical Faculty member's licence to practise medicine is suspended for disciplinary reasons, the part-time Clinical Faculty member will be removed from the academic appointment. The Dean and Vice President, FHS will notify the part-time Clinical Faculty member by courier to their last known mailing address on record at the University that they have been removed from their academic appointment, effective as of the date of suspension of the CPSO licensure. When the CPSO suspension expires, the individual may apply for an academic appointment as a new applicant. This application will be judged based on its own merits including the circumstances resulting in the suspension of the CPSO licensure.

SUSPENSION OF CPSO LICENSURE – FULL-TIME CLINICAL FACULTY

Upon receipt of notification from the CPSO that a full-time Clinical Faculty member's licence to practise medicine has been suspended for disciplinary reasons, the Department Chair will notify the Dean and Vice-President, FHS who shall convene a decanal *Peer Review Tribunal* to assess the circumstances of and reasons behind the suspension of CPSO licensure, and determine the appropriate response by the University (see Appendix A). The *Peer Review Tribunal* will be composed of:

- Dean and Vice-President, FHS
- Associate Dean, Clinical Services, FHS
- Department Chair from a clinical department at arm's length from the Clinical Faculty member and with no prior knowledge of the circumstances who is selected by the Dean and Vice-President, FHS
- The elected Clinical Faculty Association representative from a clinical department at arm's length from the Clinical Faculty member
- Assistant Dean, MD Program
- Assistant Dean, Postgraduate (Residency) Program
- Associate Dean, Graduate Studies, Health Sciences (when graduate supervision is a relevant issue)

The *Peer Review Tribunal* will review the pertinent facts and make a recommendation to the President whether:

- to recommend that the full-time Clinical Faculty member be suspended with pay as per the provisions of *Section V: Tenure and Promotion Policy* and to allow the clinical faculty member to return to regular or restricted duties upon expiry of the CPSO suspension;
- to recommend that the full-time Clinical Faculty member be suspended without pay as a disciplinary action as per the provisions of *Section V: Tenure and Promotion Policy* and to allow the clinical faculty member to return to regular or restricted duties upon expiry of the CPSO suspension;
- to recommend that the full-time Clinical Faculty member be suspended immediately (with or without pay) and removed in accordance with *Section VI: Tenure and Promotion Policy*.

The Dean and Vice-President, FHS will forward the report of the *Peer Review Tribunal* to the University President. The University President shall decide whether to accept the recommendation to suspend and/or remove the full-time Clinical Faculty member. The President will be guided in this decision by the recommendations of the *Peer Review Tribunal*; in no case shall the suspension by the President be more severe than the recommendation of the *Peer Review Tribunal*, unless the President has additional

information that, in his/her opinion indicates that removal should be considered. The President will proceed in accordance with *Section V: Suspension of a Faculty Member* and/or *Section VI: Procedures for Removal*, as appropriate.

RESTRICTION OF CPSO LICENSURE – PART-TIME CLINICAL FACULTY

Where a restriction on licensure is placed by the CPSO, the Department Chair will assess the circumstances and determine whether to:

- continue to allow the part-time Clinical Faculty member to supervise students on clinical placements,
- reassign current students and restrict the part-time Clinical Faculty member from supervising students on clinical placements until the restriction is lifted, or
- seek the termination of the part-time Clinical Faculty member.

If a decision is made to restrict the teaching activities of the part-time Clinical Faculty member, then the restrictions shall be implemented effective immediately.

If a decision is made by the Department Chair to seek termination of the part-time Clinical Faculty member, then the Department Chair will recommend to the Dean and Vice-President, FHS that the part-time Clinical Faculty member be terminated from their academic appointment, and the final decision will rest with the Dean and Vice-President, FHS.

RESTRICTION OF CPSO LICENSURE – FULL-TIME CLINICAL FACULTY

Where a restriction on licensure is placed by the CPSO, the Department Chair will assess the circumstances and determine whether to:

- continue to allow the full-time Clinical Faculty member to supervise students on clinical placements,
- reassign current students and restrict the full-time Clinical Faculty member from supervising students on clinical placements until the restriction is lifted, or
- seek the suspension or removal of the full-time Clinical Faculty member.

If a decision is made by the Department Chair to restrict the teaching activities of the full-time Clinical Faculty member, then the restrictions shall be implemented effective immediately. If the full-time Clinical Faculty member disagrees with these restrictions, they have recourse to the *Faculty General Grievance Procedure*.

If the Department Chair seeks to suspend or remove the full-time Clinical Faculty member, then the Department Chair will notify the Dean and Vice-President who shall convene a decanal *Peer Review Tribunal* to assess the circumstances of and reasons behind the restriction of CPSO licensure and determine the appropriate response by the University (see Appendix A) . The *Peer Review Tribunal* will be composed of:

- Dean and Vice-President, FHS
- Associate Dean, Clinical Services, FHS
- Department Chair from a clinical department at arm's length from the Clinical Faculty member and with no prior knowledge of the circumstances who is selected by the Dean/Vice-President, FHS

- The elected Clinical Faculty Association representative from a clinical department at arm's length from the Clinical Faculty member
- Assistant Dean, MD Program
- Assistant Dean, Postgraduate (Residency) Program
- Associate Dean, Graduate Studies, Health Sciences (when graduate supervision is a relevant issue)

The *Peer Review Tribunal* will review the pertinent facts and make a recommendation to the President whether:

- to recommend that the full-time Clinical Faculty member be suspended with pay as per the provisions of *Section V: Tenure and Promotion Policy* and to allow the clinical faculty member to return to regular or restricted duties upon expiry of the CPSO restrictions;
- to recommend that the full-time Clinical Faculty member be suspended without pay as a disciplinary action as per the provisions of *Section V: Tenure and Promotion Policy* and to allow the clinical faculty member to return to regular or restricted duties upon expiry of the CPSO restriction;
- to recommend that the full-time Clinical Faculty member be removed from their academic appointment in accordance with *Section VI: Tenure and Promotion Policy*

The Dean and Vice-President, FHS will forward the report of the *Peer Review Tribunal* to the University President. The University President shall decide whether to accept the recommendation to suspend or remove the full-time Clinical Faculty member. The President will be guided in this decision by the recommendations of the *Peer Review Tribunal*; in no case shall the decision of the President be more severe than the recommendation of the *Peer Review Tribunal*, unless the President has additional information that, in his/her opinion indicates that removal should be considered. If so, the President will proceed in accordance with *Section V: Suspension of a Faculty Member* or *Section VI: Procedures for Removal*, as appropriate.

TERMINATION OF HOSPITAL PRIVILEGES

Where it is a condition of appointment to hold a medical staff appointment and privileges and, in the event that a Clinical Faculty member fails to maintain the medical staff membership and privileges as specified in their appointment letter, and after all rights of appeal of the loss of hospital privileges have been exhausted, then the academic appointment will terminate immediately (in the case of part-time faculty) or suspension and/or removal proceedings will commence in accordance with the procedures specified in the *Tenure and Promotion Policy* (for full-time faculty).

FAILURE TO MAINTAIN MALPRACTICE INSURANCE

Maintenance of malpractice insurance is a condition of hospital privileges. Failure to maintain malpractice insurance results in termination of hospital privileges. In the event that the University is notified that a Clinical Faculty member has lost their hospital privileges for failure to maintain malpractice coverage, and after all rights of appeal of the loss of hospital privileges have been exhausted, then the academic appointment will terminate immediately (in the case of part-time faculty) or suspension and/or removal proceedings will commence in accordance with the procedures specified in the *Tenure and Promotion Policy* (for full-time faculty).

DEPARTMENT CHAIR TO REASSIGN DUTIES

Upon the suspension, termination or removal of a faculty member, the Department Chair will itemize the teaching, research, service, and other academic obligations of the departing faculty member. The Department Chair will determine the most appropriate means to address the faculty member's obligations, including notification to appropriate FHS education programs, by finding an appropriate replacement faculty member for supervision of graduate student or other learners, or by making appropriate arrangements for interim leadership, etc.

APPENDIX A – PEER REVIEW TRIBUNAL

The Peer Review Tribunal shall conduct itself in accordance with the principles of natural justice, namely the rights to receive notice, to be heard and to know the case against one. The Peer Review Tribunal shall follow the applicable procedural rules specified in the Statutory Powers Procedure Act.

The Statutory Powers Procedure Act of Ontario establishes minimum rules by which certain tribunals must proceed, to ensure that the basic principles of natural justice have been observed. When the procedures of a tribunal incorporate these principles, the tribunal will have satisfied the requirements of being fair to the parties before it.

Because the Statutory Powers Procedure Act provides fundamental rules, rather than a detailed set of procedures for the conduct of hearings, tribunals have some discretion to establish the actual manner in which a hearing will be conducted.