

Mary Pugsley MBE

Director, HAIR AT THE ACADEMY



Malpractice and Maladministration Policy

Written by Mary Pugsley MBE

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1. Introduction

1.1. Purpose of the policy

This policy provides definitions of malpractice and maladministration and sets out information about the procedures which HATA must follow for reporting and dealing with any suspected or actual cases of malpractice or maladministration.

HATA displays this policy and procedures in our centre, to support all parties involved in the handling of suspected or actual instances of malpractice or maladministration, by providing a framework for investigating and dealing with such instances in an effective and consistent manner.

This document sets out the process for investigating suspected or actual cases of malpractice or maladministration.

It should be read in conjunction with the following related policies and procedures:

- Learner Agreement;
- Plagiarism, Collusion and Cheating Policy;
- Whistleblowing Policy and Procedure;
- Sanctions Policy;
- Adverse Effects and Investigations;
- Conflict of Interest Policy and Procedures;
- Appeals Policy;

1.2. Scope of the policy

The Malpractice and Maladministration Policy and Procedures apply to all qualifications delivered at HATA. This policy is provided for the use of all learners who are taking or have taken HATA assessments, and personnel with responsibilities for managing, delivering, assessing and quality assuring qualifications on behalf of HATA, who suspect or become aware that malpractice or maladministration has occurred.

It is also provided for awarding organisation personnel who suspect or become aware that malpractice or maladministration has occurred.

1.3. Regulatory authorities

This policy addresses the requirements of the relevant awarding bodies and regulatory authorities' criteria.

1.3.1. Adverse effects

Attention is drawn to HATA's obligations to consider risks caused by adverse effects, defined as an act, omission, event, incident or circumstance that gives rise to prejudice to learners or potential learners or adversely affects:

- the ability of HATA to undertake the development, delivery or award of qualifications in accordance with awarding organisation or regulatory requirements.
- the standards of qualifications which the HATA makes available or proposes to make available, or public confidence in qualifications.

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1.3.2. Malpractice

Malpractice is the term used for any action, activity, neglect, default or other practice which deliberately contravenes company policies or regulations and compromises the integrity of the internal or external assessment process, the validity of results and/or certificates or the reputation and credibility of HATA or the wider qualification community. Malpractice has serious implications for the centre and learners and is always treated very seriously. Malpractice may include a range of issues, from the deliberate failure to maintain appropriate records or systems to the deliberate falsification of records. In this policy, this term also covers misconduct and forms of unnecessary discrimination or bias towards certain groups of learners.

1.3.3. Maladministration

Maladministration is any activity, neglect, default or other practice that results in non-compliance with HATA's policies, standards and requirements or any other applicable requirements and includes the application of persistent mistakes or poor administration within the centre. HATA are expected to maintain adequate systems and procedures and ensure that staff understand them and adhere to them always. Recurrent maladministration constitutes malpractice and will be treated as such.

1.4. Responsibilities

1.4.1. HATA

HATA is responsible for ensuring that all related investigations are conducted by individuals who:

- have no personal interest in the issue;
- have appropriate competence
- HATA personnel are required to follow the related procedures to deal with cases of suspected and/or actual malpractice and maladministration as effectively as possible.

HATA will be responsible for ensuring that investigations are carried out in a prompt and effective manner and in accordance with the procedures in this policy.

HATA will allocate the director (or another suitable member of the Senior Management Team) to lead the investigation of a case, establish if malpractice or maladministration has occurred, and review any supporting evidence received or gathered by HATA. It is essential for HATA to meet its obligations relating to notification of adverse effects to the awarding bodies or regulators, including suspected cases of malpractice and maladministration. It may be required to include this in the Annual Statement of Compliance. (See 1.3.1).

Where the allegation may affect another awarding organisation and their provision, HATA will inform that awarding body in accordance with regulatory requirements, and/or seek to undertake a joint investigation with the awarding body if appropriate. If HATA does not know the details of organisations that might be affected, the regulators will be asked to help identify relevant parties that should be informed. Where an associated investigation leads to the discovery of a failure in its assessment process, HATA takes all reasonable steps to:

- identify any other learner who has been affected by the failure;
- correct or, where it cannot be corrected, mitigate as far as possible the effect of the failure;
- ensure that the failure does not recur in the future.

Any confirmed results of Maladministration and/or malpractice will be notified to any affected parties immediately (including any other awarding bodies or external agencies) and dealt with in line with the policy and procedures.

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It is also important that staff involved in the management, assessment and quality assurance of HATA qualifications, and learners, are fully aware of the contents of the policy and that they are aware of the centre arrangements in place to prevent and investigate instances of malpractice and maladministration.

HATA's compliance with this policy and how it takes reasonable steps to prevent and/or investigate instances of malpractice and maladministration is reviewed periodically through the centre monitoring arrangements. When an investigation is conducted the director must:

- Ensure the investigation is carried out by competent investigators who have no personal involvement in the incident or interest in the outcome (usually a member of the SMT or the director);
- Ensure the investigation is carried out in an effective, prompt and thorough manner;
- Ensure staff cooperate fully with the investigation, providing speedy and full responses to requests for information.

1.4. Review arrangements

This policy is reviewed annually as part of HATA's self-evaluation activity, which considers customer Awarding body feedback, regulatory feedback and good practice guidance, changes in HATA's practices, actions from the awarding bodies and regulators, changes in legislation, or trends identified from previous cases. In addition, this policy may be updated following consideration of operational feedback to ensure HATA's arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

1.4.1. Situations brought to our attention by the awarding bodies or regulators

Where the awarding bodies or regulators notify us of failures that have been discovered in the assessment process of another awarding organisation, we will review if a similar failure could affect our own assessment processes and arrangements.

2. Malpractice and Maladministration Process

2.1. Introduction

HATA are obliged to inform all parties involved promptly of any suspected or alleged cases of malpractice or maladministration. Where malpractice or maladministration is suspected or has occurred, including any assessment site or a partner organisation involved in the administration or assessment of the qualification, HATA may impose sanctions immediately, pending the outcome of the investigation.

2.1.1. Identifying possible or actual malpractice or maladministration

Any person may identify a matter that they think could constitute malpractice or maladministration. This will normally be a HATA employee, a learner, an awarding organisation employee, a contractor (e.g. a moderator), or an external agency (e.g. the Education and Skills Funding Agency). HATA may identify cases of malpractice or maladministration through its routine work or in considering other matters, such as an appeal against results. HATA will notify the director when an allegation of maladministration or malpractice is received. If the notification implicates the director, the chair of the centre board will be notified. Failure to report any suspected or actual malpractice or maladministration will result in the immediate suspension of involved parties until a full

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investigation has been completed. Centres failing to report malpractice or maladministration may not have their approval status reinstated after the investigation is completed.

HATA must notify the awarding bodies and regulator(s) when commencing an investigation if and follow their policies and procedures as requested. HATA will provide an estimated timescale for its completion.

2.1.2. Anonymity and Whistle Blowing

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous. An informant who is concerned that possible adverse consequences may occur if their identity is revealed to another party should notify the director or company chair. HATA will always aim to keep a whistle blower's identity confidential where asked to do so, although it cannot be guaranteed. HATA may, for example, need to disclose an informant's identity if the matter leads to issues that need to be taken up by other parties such as the police, fraud prevention agencies or other law enforcement agencies, the courts (regarding any court proceedings) or the awarding bodies or regulators.

Once a concern has been raised, HATA has a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing a notification, as HATA is obliged by regulating authorities and awarding bodies to follow up and investigate all allegations of malpractice or maladministration.

In all cases the informant will have the opportunity to raise with the investigators any concerns about the way the investigation is being conducted. It should be noted that HATA will not disclose details of all the investigation activities, and it may not be appropriate to disclose full details of the outcomes of the investigation due to confidentiality or for legal reasons (e.g. action to be taken against the parties concerned). Please see the whistleblowing policy for further details.

2.1.3. Timescale

Where possible HATA aims to:

- resolve all stages of the investigation within 20 working days of receipt of the allegation;
- produce the draft investigation report within 10 working days of receipt of the allegation
- confirm factual accuracy of the draft report within 5 working days of its availability;
- publish the final report and actions within 5 working days of confirmation of the draft report.

If it is likely that any stage of the investigation may take longer, HATA will advise all parties concerned of the anticipated revised timescale.

2.1.4. Investigating a case of suspected or actual malpractice or maladministration

The fundamental principle of all investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. In doing so, investigations will be underpinned by terms of reference based around the following broad objectives:

- to establish the facts relating to allegations to determine whether any irregularities have occurred;
- to identify the cause of the irregularities and those involved;
- to establish the scale of the irregularities and whether qualifications may be affected;
 - to evaluate any action already taken by HATA;
- to determine whether remedial action is required to reduce the risk to current registered learners;
- to preserve the integrity of HATA;
- to ascertain whether any action is required in respect of certificates already issued;

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- to obtain clear evidence to support any sanctions to be applied to the centre and/or to members of staff, in accordance with HATA's Sanctions Policy;
- to identify any adverse patterns or trends.

HATA will carry out the investigation itself normally within 10 working days of the notification of the case.

HATA will expect all parties who are either directly or indirectly involved in the investigation to co-operate fully with the investigation.

In carrying out any investigation HATA will be sensitive to the effect on and the reputation of those involved including members of staff, HATA or other individuals who may be subject to investigation. It will strive to ensure that the investigation is carried out as confidentially as possible.

The organisation/person who is the subject of the allegation will have the opportunity to raise any issues with the investigator(s) at any stage about the proposed approach and conduct of the investigation. The investigation may involve a request for further information from relevant parties and/or interviews with personnel involved in the investigation. Interviews will be recorded, dated and signed by all involved. The person(s) accused of malpractice or maladministration may choose to be accompanied in the interview by a work colleague, trade union representative or other person, and must be advised of this right in time to be able to arrange to be accompanied. Children, young people and vulnerable adults must be accompanied at the interview by an appropriate adult. HATA may find that the complexity of a case or a lack of cooperation means that it is not possible to complete an investigation. In such circumstances the director may consult with relevant awarding bodies and regulatory authorities to determine how best to progress the matter.

2.1.5. Retention of materials

HATA will:

- ensure all materials collected as part of an investigation are securely kept
- retain, for a period of not less than 5 years, all records and original documentation concerning a completed investigation leading to sanctions
- retain, until the case and any appeals have been heard and for five years thereafter, all records and original documentation of an investigation leading to the invalidation of certificates, or criminal or civil prosecution.

2.1.6. Use of sanctions during the investigation

Either at notification of a suspected or actual case of malpractice or maladministration and at any time during the investigation, HATA reserves the right to impose sanctions on the persons/organisations involved in accordance with HATA's Sanctions Policy, to protect the interests of learners and the integrity of HATA.

Any sanctions imposed will be proportionate to the nature of the allegation. HATA also reserves the right to withhold or invalidate a learner's and/or cohort's results for all qualifications and/or units they are studying at the time of the notification or investigation. Exceptionally, the regulator(s) may need to take over an investigation. In such circumstances the regulator(s) will provide a written instruction to HATA informing them of this requirement and its reasons for taking such action.

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Where a member of HATA's staff is under investigation HATA may suspend them, or move them to other duties until the investigation is complete. Throughout the investigation an appropriately appointed responsible manager (normally the director) will ensure that due process is being followed, timescales are being maintained, and appropriate evidence is being gathered and reviewed. The director will also be responsible for liaising with and keeping relevant parties informed.

2.1.7. Investigation outcomes and actions

If the investigation confirms that malpractice or maladministration has taken place, HATA considers what action to take to:

- minimise the risk to the integrity of the qualification(s);
- maintain public confidence in the delivery and awarding of qualifications by HATA;
- discourage others from carrying out similar instances of malpractice or maladministration;
- ensure there has been no gain from compromising HATA's standards.

The actions HATA may take include:

- undertaking additional/increased observations and spot checks to provide a greater level of support and/or monitoring;
- requiring specific centre staff to undergo additional training and/or scrutiny by the SMT if there are concerns about their ability to undertake their role effectively in the delivery of qualifications;
- not permitting specific HATA staff to be involved in the delivery or assessment of qualifications (e.g. invigilation);
- imposing sanctions – This will be communicated to the parties involved but may include termination of contract.
 - taking appropriate action against a learner(s) in relation to proven instances of cheating, plagiarism or fraud (see the Plagiarism, Cheating and Collusion process document);
 - amending aspects of HATA development, delivery and awarding arrangements, and if required, assessment and monitoring arrangements and associated guidance to prevent the issue from recurring;
 - informing relevant third parties (e.g. awarding and funding bodies) of HATA's findings in case they need to take relevant action in relation to the centre;
 - carrying out additional, related investigations if HATA suspects the issue may be more widespread e.g. involving other staff. In proven cases of malpractice and/or maladministration HATA reserves the right to charge the involved parties for the cost of any resits and reissue of certificates and/or additional quality assurance activities/centre monitoring visits.

VTCT must inform the awarding bodies and regulator(s) whenever it finds evidence that a certificate may be invalid and must agree with the regulator(s) any appropriate action that may be required.

Any qualification certificates are deemed invalid if any of the following are found to have occurred:

- the evidence assessed is not the learner's own work;
- the learner has not finished the qualification before the certificate has been claimed;
- the certificates have been claimed based on falsified records;
- the awarding organisation has issued certificates contrary to regulatory requirements.

Subsequent actions to be taken will be agreed with the regulator(s) by HATA and will be proportionate to the gravity of the malpractice or maladministration. When the decision is taken to

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invalidate certificates, HATA must ensure that the centre promptly follows the principle of seeking to protect the interests of learners as far as reasonably possible in the circumstances. HATA will:

- inform the regulatory authorities why the certificates are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates;
- Inform the affected learners of the action HATA is taking and that their original certificates are invalid;
- return the invalid certificates to the awarding bodies if possible;
- amend its database so that replacement of the invalid certificates cannot be issued;
- amend its records to show that the original awards are invalid.

2.1.8. Right to appeal

An appeal can be made against a decision or action taken/to be taken following an investigation into maladministration or malpractice.

2.2. Process for dealing with suspected or actual case of malpractice or maladministration

An initial notification of suspected or actual malpractice or maladministration should be submitted to mp@hairattheacademy.co.uk no later than 2 days after the occurrence of the event. The notification must include the following information:

- name and contact details of person submitting the notification;
- learner's name and registration number (if applicable);
- name(s) and job role(s) of personnel involved in the case;
- qualification(s) or service(s) affected;
- nature of the suspected or actual malpractice or maladministration and associated dates;
- details and outcome of any mitigating circumstances;
- declaration of any personal interest by the person making the allegation.

Within 2 days of notification HATA:

- informs the director in writing of the allegation, the information provided to date, the process of investigation and the possible outcomes;
- shares with the director any information in relation to the allegation and investigation that will be, or has been, shared with regulator(s) and may be shared with other relevant bodies (e.g. police);
- draws the attention of the director to the right to appeal in case the involved parties ultimately wish to appeal against the outcome of the process;
- establishes/confirms the lead contacts for awarding bodies for the impending investigation;
- clarifies the process for the investigation
- notifies the awarding bodies and regulators, and subsequently updates them throughout the investigation;
- may apply sanctions if deemed appropriate, pending the outcome of the investigation, and if so informs the involved parties of these.

HATA must:

- provide awarding and governing bodies with all the requested information;
- advise all parties implicated in the case of the allegation and possible outcomes;
- ensure all parties involved receive a copy of the Malpractice and Maladministration Policy and Procedures and are made aware of the timescales for the investigation;
- inform those parties of any actions taken pending the outcome of the investigation;

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-advise all parties implicated that they have the right to respond to allegations and the right to appeal against any decisions for actions against them.

- HATA completes its internal investigation within 10 days and submits its report to relevant concerned parties immediately upon completion. If there is a reason why this timescale cannot be met, HATA must notify the concerned parties immediately, giving the reason.

The draft report is submitted to all parties concerned to check for factual accuracy. Any subsequent amendments are agreed between the parties and the director. Amendments may be made at any stage of the investigation. Any further amendments will need to be recirculated in a timely manner.

The concluding report written by the director should include:

- the origin of the issue or mode of discovery of the alleged irregularity;
- where the breach, if any, occurred;
- the facts of the case;
- any mitigating factors;
- with whom the responsibility for the breach lies;
- details of the investigation;
- the evidence provided;
- the conclusions drawn.

The director decides whether malpractice or maladministration has occurred.

If the director has concluded that malpractice or maladministration has or is likely to have occurred, they decide upon the appropriate action to be taken, in line with its Sanctions Policy.

If malpractice or maladministration is not found, the director lifts any related sanctions which have been imposed.

The director produces and submits a final summary report to all relevant parties and informs them in writing of any actions to be taken and sanctions to be imposed/removed.

- VTCT submits the final report and action plan to any other external agencies as required including awarding bodies and regulators

2.4. Process for dealing with an appeal against a decision or action relating to malpractice or maladministration

A centre or learner may submit an appeal against a decision or action to be taken following an investigation into maladministration or malpractice. This section sets out the process to be followed to appeal against such a decision or action. For clarity, this appeal process is separate from appeal against an assessment decision, unless an assessment decision is the subject of the appeal following an investigation into malpractice or maladministration.

The appellant should submit a report to the Salon Manager setting out the reasons for the appeal, together with any supporting evidence, as soon as possible and no later than 15 working days after the date of receipt of the decision. Please note that appeal applications without supporting evidence will not be accepted.

The following information must be included in the appeal:

- Learner name(s) and registration number(s) if relevant;
- The affected module(s);
- The name of the qualification involved;

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- Details of any investigation carried out relating to the issue;
- The appellant's name, position and signature.

HATA will:

- consider if it will accept the appeal and notifies the appellant of this decision, normally within 10 working days of receipt of the appeal;
 - if it accepts the appeal, arrange for a panel comprising a minimum one senior manager and an Internal verifier to review the case and come to a decision, normally within 20 working days of receipt of the appeal.
- If it is not possible to complete the review within 20 working days, HATA will notify the appellant of the expected timescale.

Possible outcomes are as follows:

- the appeal is not upheld;
- the decision has been judged to be unreasonable, and has been removed or changed;
- procedures were judged to have not been applied consistently, properly or fairly. The subsequent decision is reviewed and revised accordingly.

The panel's decision is final and completes the internal appeals procedures. No further appeal will be accepted.

If an appellant wishes to take the matter further they may consider contacting the HATA director or relevant awarding body. The awarding body would require evidence that the appellant had exhausted HATA's own appeals procedure as set out above prior to taking this step.

3. 3. Appendix 1 Examples of Malpractice and Maladministration

3.1. Malpractice

The following list provides examples of centre and learner malpractice. This list is not exhaustive and is intended as guidance on VTCT's definition of malpractice:

- Deliberate failure to adhere continually to HATA's qualification approval requirements or actions assigned to the centre within stated timelines;
- Denial of access to premises, records, information, learners and staff by any authorised HATA representative and/or the regulatory authorities;
- Inadequate HATA procedures for the induction of staff or any contracted person involved in the delivery of qualifications;
- Failure to carry out internal assessment, internal moderation or internal verification in accordance with HATA's and awarding bodies requirements;
- Deliberate failure to adhere to HATA's and awarding bodies learner registration and certification procedures;
- Deliberate failure to maintain appropriate auditable records, e.g. certification claims and/or forgery of evidence.
- Fraudulent claim for certificates;
- Intentional withholding of information from HATA which is critical to maintaining the rigour of quality assurance and standards of qualifications;
- Deliberate misuse of HATA's logo and trademarks or misrepresentation of a centre's relationship with awarding bodies.

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- Collusion or permitting collusion in exams/assessments, e.g. allowing another learner to copy work or the unsanctioned collaboration between a learner or another individual in the production of work to be submitted;
- Learners still working towards a qualification after certification claims have been made;
- Persistent instances of maladministration within the centre;
- Deliberate contravention by staff and/or learners of the assessment arrangements as specified for HATA and awarding bodies
- Loss of, theft of, or a breach of confidentiality in any assessment materials;
- Plagiarism of any nature by learners and/or staff;
- Copying from another learner (including using ICT to do so);
- Personation - assuming the identity of another learner or having someone assume the identity of the named learner during an assessment;
- Unauthorised amendment, copying or distributing of exam/assessment papers/materials;
- Inappropriate assistance to learners by HATA staff (e.g. unfairly helping them to pass a unit or qualification);
- Deliberate submission of false information to gain a qualification or unit;
- Deliberate failure to adhere to, or attempts to circumnavigate the requirements of HATA's Reasonable Adjustments and Special Considerations Policy;
- False ID used at the registration stage;
- Creation of false records;
- Cheating;
- Cash for certificates (e.g. the selling of certificates for cash);
- Selling papers/assessment details/certificates;
- Failure to manage and prevent conflicts of interest;
- Failure to provide HATA learners and staff, including contractors, with the knowledge of their responsibilities through policies and procedures;
- Failure to review systems, policies and procedures to ensure they remain fit for purpose;
- Centre postponement of visits by awarding bodies External Quality Assurer for more than 6 months;
- Failure to carry out delivery, internal assessment, internal moderation or internal quality assurance in accordance with HATA's and awarding bodies requirements;
- Failure to conduct assessments or other external assessment according to HATA's and awarding bodies procedures or regulations;
- Inaccurate recording of learner assessment decisions leading to invalid claims for certification;
- Deliberate falsification, fabrication or forgery of assessment evidence, records or authentication statements by HATA staff or learners;
- Failure to retain accurate learner assessment decision for the specified timescale;
- Deliberate destruction of another's work;
- Obtaining examination or assessment material without authorisation;
- Introduction of unauthorised material into an assessment room, for example notes, study guides, own blank paper, personal stereos, mobile phones and other similar electronic devices;
- Obtaining, receiving, exchanging or passing on information during an assessment (or the attempt to) by any means;
- Failure to follow a HATA's own malpractice and maladministration policy and/or report occurrences;
- Tampering with learners' scripts or other assessed work after collection;

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- Non-compliance with HATA and awarding bodies invigilation requirements during assessments;
- Failing to keep assessment papers secure prior to assessment;
- Withholding of information by deliberate act or omission, which is required to assure HATA and awarding bodies of the centre's ability to deliver qualifications appropriately.

3.2. Maladministration

The following list provides examples of centre, HATA staff and learner maladministration. This list is not exhaustive and is intended as guidance on HATA's definition of maladministration:

- Failure to adhere to HATA's and awarding bodies learner registration and certification procedures;
- Failure to adhere to HATA's and centre agreement and/or qualification requirements and/or associated actions;
- Late registration of learners;
- Unreasonable delays in responding to requests and/or communications from awarding bodies
- Inaccurate claim for certificates;
- Failure to maintain appropriate auditable records, e.g. certification claims;
- Misuse of the HATA logo and trademarks or misrepresentation of the relationship with awarding bodies and its recognition and approval status with regard to qualifications.
- Failure to adhere to, or to circumnavigate, the requirements of HATA's and awarding bodies Reasonable Adjustments and Special Considerations Policy;
- Failure to adhere to HATA and awarding bodies policies, procedures and practices;

HATA will prioritise alleged malpractice in respect of the following:

- Failure by HATA staff to appropriately manage any Conflicts of Interest within HATA
- Additional unit entries for a specific qualification without discussion with HATA
- A failure to accurately report learners' completed units for vocational qualifications
- Alleged bribery in relation to awarding of specific grades to specific individuals
- The submission of inauthentic evidence which is identified by External Quality Assurance processes

This list is not exhaustive and is in addition to the list within the main body of the Malpractice Policy and Procedure.

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