

Statement

23 March 2012

When it is necessary to be registered as a dental practitioner?

Purpose

This statement provides advice to help practitioners decide whether or not they should be registered.

Why the Dental Board of Australia (the Dental Board) is publishing this information

The National Boards have defined “practice” in a number of their registration standards as:

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. For the purposes of this registration standard, practice is not restricted to the provision of direct clinical care. It also includes using professional knowledge in a direct non-clinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on safe, effective delivery of services in the profession.

The definition was intended to be broad and inclusive. It allows individuals with qualifications as a health practitioner to be registered if they are using their skills and knowledge as a health practitioner, regardless of whether or not they are treating persons¹. Registered health practitioners can use the protected title related to their profession and must comply with their National Board’s approved registration standards.

Many qualified health practitioners who use their skills and knowledge in a range of activities outside direct patient care may not need to be registered. This statement clarifies the circumstances in which the Dental Board expects dental practitioners to be registered and details circumstances in which registration may not be required. This advice is based on the *Health Practitioner Regulation National Law Act* (National Law) as in force in each state and territory, and the level of risk to the public that the “practice” poses.

The National Law

Dental practitioners are registered under the National Law. The National Law limits the use of certain titles. The protected titles for the dental profession are dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist (see s.113 of the National Law) and each of the dental specialties recognised under the National Law (see 119 of the National Law and the Dental Board’s website for a list of

¹ In this document “the person” has been used to describe a person receiving clinical services. It includes patients, clients and consumers

protected titles for dental specialists). Other than restricted dental acts, prescription of optical appliances and manipulation of the cervical spine,² as defined in the National Law, the National Law does not specify the activities that require registration as a health practitioner. That is, it is not a breach of the National Law for a dental practitioner to use their knowledge and skills relating to the dental profession without being registered if the individual does not breach the sections of the National Law related to the protection of title or to the specific practice protections.

Under the National Law, a person must be a registered health practitioner if they:

1. use the title “registered health practitioner” with or without any other words (s. 116(a))
2. take or use a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate, that the person is a health practitioner or is authorised or qualified to practise in a health profession (s. 116(b))
3. claim to be registered under the National Law or hold themselves out registered under the National Law (s. 116(c))
4. claim to be qualified to practise as a health practitioner (s. 116(d))
5. undertake a restricted act (which are specific dental acts, prescription of optical appliances and manipulation of the cervical spine).

The online national Register of Practitioners allows the public to identify who is a registered health practitioner. Practitioners who are registered must meet the registration standards set by the relevant National Board. The public can therefore be confident that a registered practitioner meets the relevant requirements for professional indemnity insurance, continuing professional development and recency of practice.

The Dental Board’s advice on who should be registered

Any practitioner who is qualified and meets the applicable registration standards of the Dental Board of Australia may apply for registration.

It is up to each individual to decide whether or not they need to be registered. Under the National Law this is not a decision the Dental Board can make in the absence of an application for registration. However, dental practitioners who are registered, become subject to the jurisdiction of the Dental Board.

The Dental Board provides the following advice, based on the objectives of the National Law to help practitioners decide whether or not they should be registered.

² Part 7, Division 10, Sub-division 2

As the primary purpose of registration is to protect the public, the Dental Board considers that practitioners should be registered if they are providing treatment or opinion about the health of a person, including prescribing or formally referring to other registered health practitioners, or when a person may reasonably believe that the practitioner is registered.

When deciding whether they need to be registered, practitioners should consider the following examples:

Examples of when the Dental Board considers that practitioners should be registered include:

1. they have direct clinical contact
2. their work impacts on safe, effective delivery of health services to individuals
3. they are directing or supervising or advising other health practitioners about the health care of an individual(s)
4. their employer and their employer's professional indemnity insurer requires a person in that role to be registered
5. the practitioner's professional peers and the community would expect a person in that role to comply with the relevant Board's registration standards for professional indemnity insurance (PII), continuing professional development (CPD) and recency of practice
6. they are required to be registered under a law to undertake a specific activity
7. they wish to use a protected title which is reserved for registered health practitioners
8. they wish to be eligible for certain Medicare and/or Pharmaceutical Benefit payments
9. they are performing a restricted dental act as defined by section 121 of the National Law (see Appendix A), and/or
10. they are an examiner or assessor of dental students or dental practitioners, when the student or dental practitioners are treating patients or members of the public as part of the assessment or examination.

Roles in which individuals may not have to be registered

The following examples are provided to assist individuals decide whether or not they ought to be registered. The examples are not exhaustive. They have been selected based on common queries raised with National Boards.

Each individual practitioner will need to decide whether or not they should be registered on the basis of their own circumstances and using the examples as listed above as guidance.

Practitioners engaging in the following activities may not require registration:

- an examiner or assessor for an accreditation council, when the council does not believe that registration is necessary for the scope of activity undertaken and provided the examiner/assessor is not supervising or assessing candidates who are treating persons as part of the assessment
- a tutor or teacher working in:
 - settings which involve persons to demonstrate examination or consulting technique but not the actual delivery of care
 - settings which involve simulated persons

- settings in which there are no persons
- a researcher whose work does not include any human subjects and whose research facility does not require them to be registered
- a practitioner who has been invited to talk publicly about a health related topic and who will not be giving any specific advice
- a practitioner discussing the health of another person in a social setting but not providing specific advice or opinion
- a practitioner serving on a Board, committee or accreditation body, when their appointment is not dependent on their status as a “registered practitioner”
- a person providing first aid in an emergency
- a person who may be using skills and knowledge gained from an approved qualification but is not using a protected title, or claiming or holding themselves out to be registered, such as a person in an advisory or policy role, and/or
- A practitioner who is registered overseas and is visiting for any role not involved in providing treatment or opinion about the health of any individuals, for example a course presenter from overseas who uses a protected title with words explaining their registration status in Australia eg dentist (registered in the United Kingdom, or not registered in Australia)

If you do not require registration, but wish to continue using a protected title, you may wish to consider non-practising registration.

Further advice

If you require further assistance to help you decide whether or not you need to be registered, consult your employer, professional indemnity insurer or other legal adviser.

Appendix A

Extract of relevant provisions from the *Health Practitioner Regulation National Law Act* as in force in each state and territory

Subdivision 2 Practice protections

Section 121 Restricted dental acts

(1) A person must not carry out a restricted dental act unless the person—

- (a) is registered in the dental profession or medical profession and carries out the restricted dental act in accordance with any requirements specified in an approved registration standard; or
- (b) is a student who carries out the restricted dental act in the course of activities undertaken as part of—
 - (i) an approved program of study for the dental profession or medical profession; or
 - (ii) clinical training in the dental profession or medical profession; or
- (c) carries out the restricted dental act in the course of carrying out technical work on the written order of a person registered in the dentists or dental prosthetists division of the dental profession; or
- (d) is a person, or a member of a class of persons, prescribed under a regulation as being authorised to carry out the restricted dental act or restricted dental acts generally.

Maximum penalty—\$60,000 or 3 years imprisonment or both.

(2) In this section—

restricted dental act means any of the following acts—

- (a) performing any irreversible procedure on the human teeth or jaw or associated structures;
- (b) correcting malpositions of the human teeth or jaw or associated structures;
- (c) fitting or intra-orally adjusting artificial teeth or corrective or restorative dental appliances for a person;
- (d) performing any irreversible procedure on, or the giving of any treatment or advice to, a person that is preparatory to or for the purpose of fitting, inserting, adjusting, fixing, constructing, repairing or renewing artificial dentures or a restorative dental appliance.

technical work means the mechanical construction or the renewal or repair of artificial dentures or restorative dental appliances.