



New South Wales

Podiatrists Regulation 2005

under the

Podiatrists Act 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Podiatrists Act 2003*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Health

Explanatory note

This Regulation provides for certain matters under the *Podiatrists Act 2003*, including:

- (a) setting out procedures for meetings of the Podiatrists Registration Board (*the Board*), and
- (b) providing for an offence relating to advertising of podiatry services, and
- (c) prescribing certain offences relating to traffic and parking as offences that are not required to be notified to the Board, and
- (d) setting out procedures for notifying that a registered podiatrist has become a mentally incapacitated person, and
- (e) setting out procedures for appeals on a point of law where the Board deals with a complaint against a registered podiatrist, and
- (f) prescribing fees for inspection of the Register of Podiatrists (*the Register*) and for recording additional information in the Register, and
- (g) infection control standards, and
- (h) certain other matters that the *Podiatrists Act 2003* provides may be prescribed.

This Regulation is to be made under the *Podiatrists Act 2003*, including sections 20–23, 77, 132 (the general regulation-making power) and Schedules 1 and 3.

With the exception of clause 14 and Schedule 1, this Regulation comprises matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Podiatrists Regulation 2005

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Podiatrists Regulation 2005*.

2 Commencement

This Regulation commences on 9 December 2005.

3 Definition

In this Regulation:

the Act means the *Podiatrists Act 2003*.

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Clause 4 Podiatrists Regulation 2005

Part 2 Proceedings of Board

Part 2 Proceedings of Board

4 Proceedings of Board at ordinary meetings

- (1) Unless otherwise determined by the Board, a meeting of the Board is to be held each month.
- (2) However, at least 8 meetings of the Board must be held during any period of 12 months.
- (3) The Registrar must give each member at least 3 days' notice in writing of the time and place of a meeting, together with a copy of the agenda for the meeting.

5 Special and urgent meetings

- (1) The President or any 3 members may, by notice in writing to the Registrar, call a special meeting of the Board, and any such special meeting is to be held within 7 days after the Registrar receives the notice.
- (2) The President may, by notice in writing to the Registrar, call an urgent meeting of the Board for any purpose, and any such urgent meeting is to be held within 3 days after the Registrar receives the notice.
- (3) The Registrar must give each member at least 24 hours' notice in writing of the time and place of any special or urgent meeting.

6 Lack of quorum

If at the expiration of 30 minutes after the time appointed for any meeting of the Board a quorum is not present, the meeting and all business stand adjourned to the next meeting or to such other date as may be fixed by the members present.

7 Transaction of business by telephone

- (1) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (2) For the purposes of a meeting held in accordance with this clause, the President and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

Part 3 Advertising

8 Advertising

A person must not advertise podiatry services in a manner that:

- (a) is false, misleading or deceptive, or
- (b) creates an unjustified expectation of beneficial treatment, or
- (c) promotes the unnecessary or inappropriate use of podiatry services.

Maximum penalty: 10 penalty units.

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Clause 9 Podiatrists Regulation 2005

Part 4 Miscellaneous

Part 4 Miscellaneous

9 Excluded offences

- (1) Sections 20 (1) (a), 21 (1) (a) and 22 (1) of the Act do not apply in respect of an excluded offence.
- (2) An excluded offence is not relevant for the purposes of clause 4 of Schedule 1 to the Act.
- (3) In this clause, *excluded offence* means any offence relating to the parking of motor vehicles or any offence under the road transport legislation (within the meaning of the *Road Transport (General) Act 2005*) except for the following offences:
 - (a) an offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle negligently on a road or road related area if the registered podiatrist is, by way of penalty, sentenced to imprisonment or fined a sum of not less than \$200,
 - (b) an offence under section 42 (2) of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle on a road or road related area furiously, recklessly or at a speed or in a manner dangerous to the public,
 - (c) any offence under section 171 (2) of the *Road Transport (General) Act 2005* (which relates to refusing to comply with a requirement to produce a driver licence, or to state name or home address, or stating a false name and home address),
 - (d) any offence under section 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to driving etc while under the influence of alcohol or any other drug),
 - (e) any offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998* (which relates to driving while unlicensed),
 - (f) any offence under section 70 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to failing to stop and give assistance after an accident),
 - (g) any offence under section 9 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to presence of prescribed concentration of alcohol in a person's blood),
 - (h) any offence under section 43 of the *Road Transport (Safety and Traffic Management) Act 1999* (which relates to menacing driving),

- (i) any other offence under the road transport legislation if the court orders the disqualification of the registered podiatrist from holding a driver licence.

10 Notice of mental incapacity of registered podiatrist

- (1) For the purposes of section 23 of the Act, the person required to cause notice of mental incapacity to be given to the Registrar is:
 - (a) in the case of a registered podiatrist who is a mentally incapacitated person and becomes a patient at an institution because of that incapacity—the medical superintendent of the institution, or
 - (b) in the case of a registered podiatrist who is a mentally incapacitated person because of being a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 23 of the Act is to be given by telephone within 1 day, and by post within 7 days, after the registered podiatrist is admitted to the institution or becomes a protected person, and is to specify the following:
 - (a) the name and residential address of the registered podiatrist,
 - (b) the date on which the registered podiatrist was admitted to the institution at which the registered podiatrist is a patient or became a protected person.
- (3) In this clause:
patient means a person to whom medical treatment or other medical services are provided.

11 Appeal on point of law

An appeal referred to in section 77 of the Act is to be made:

- (a) by causing a notice of appeal, specifying the grounds on which the appeal is made, to be given to the Chairperson (or, if a Deputy Chairperson is nominated under section 77 (1) of the Act, to the Deputy Chairperson so nominated), and
- (b) by causing a copy of the notice of appeal to be given to each other party to the proceedings from which the appeal has arisen.

12 Fee for inspection of Register

For the purposes of clause 21 (5) of Schedule 1 to the Act, the prescribed fee (being the maximum amount for an inspection of the Register) is \$20.

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Clause 13 Podiatrists Regulation 2005

Part 4 Miscellaneous

13 Fee for additional information to be recorded in Register

For the purposes of clause 22 (3) of Schedule 1 to the Act, the prescribed fee (being the fee for recording additional particulars in the Register) is \$20.

14 Infection control standards

- (1) A registered podiatrist must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 1 to the extent that they apply to the registered podiatrist in the practice of podiatry.
- (2) In determining whether or not a registered podiatrist has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to whether the necessary equipment was provided to the podiatrist, including providing access to it and training in its use, that would have enabled the podiatrist to comply with the standard (and whether the failure to provide such equipment was reported by the podiatrist to the Director-General of the Department of Health).

Schedule 1 Infection control standards

(Clause 14)

Part 1 Preliminary

1 Definitions

- (1) In this Schedule:

body substance includes any human bodily secretion or substance other than blood.

invasive procedure means any one or more of the following:

- (a) surgical entry into body tissue, cavities or organs,
- (b) surgical repair of injuries.

patient includes (but is not limited to) a person who is accessing podiatry or health services or who is undergoing any podiatry or health procedure.

sharps means any object capable of inflicting penetrating injury, and includes acupuncture needles, hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

- (2) The requirements set out in this Schedule apply to a registered podiatrist who is assisting in performing a procedure in the same way as they apply to a registered podiatrist who is actually performing the procedure.

Part 2 General standards applying to registered podiatrists

2 General precautions

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or body substances. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

3 Hand and skin cleaning

- (1) Hands must be cleaned:
 - (a) immediately before and after any direct patient care, and
 - (b) immediately after handling blood or body substances, and
 - (c) immediately before putting on, and after removal of, gloves.

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Schedule 1 Infection control standards

- (2) Hands may be cleaned by:
 - (a) using washing facilities involving water and a soap or antiseptic, or
 - (b) using non-water cleansers or antiseptics.
- (3) Hands or other skin surfaces that are contaminated with a patient's blood or body substances must be cleaned as soon as it is practicable to clean them.
- (4) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

4 Protective gowns and aprons

A gown or apron made of impervious material must be worn during any procedure where there is a likelihood of clothing being splashed or contaminated with blood or body substances.

5 Gloves

- (1) Gloves must be worn while handling blood or body substances.
- (2) In particular, gloves must be worn:
 - (a) while performing any procedure where direct contact is anticipated with a patient's blood or body substances, mucous membranes or non-intact skin, and
 - (b) while handling items or surfaces that have come into contact with blood or body substances, and
 - (c) while performing an invasive procedure, venipuncture, or a finger or heel stick.
- (3) Gloves must be changed and discarded:
 - (a) as soon as they are torn or punctured, and
 - (b) after contact with each patient.
- (4) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
- (5) Gloves must be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

6 Masks and protective eye wear

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or body substances.

- (2) A mask must be worn when in close contact with patients known by the registered podiatrist to have an infectious disease (or suspected by the podiatrist of having such a disease) if the disease is capable of being transmitted by the airborne or droplet route. If the disease is tuberculosis, the mask must be a particulate mask that is capable of filtering to 0.3µm.
- (3) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (4) A mask must be discarded once it has been worn and it must not be used again.
- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable (in which case it is to be cleaned in accordance with the manufacturer's instructions).

7 Sharps

- (1) Sharps must not be passed by hand between a registered podiatrist and any other person. However, this requirement does not apply if, in any case involving an invasive procedure, the proper conduct of the procedure would be adversely affected.
- (2) A puncture resistant tray must be used to transfer sharps.
- (3) A needle must not be removed from a disposable syringe for disposal, or be purposely broken or otherwise manipulated by hand, unless:
 - (a) it is necessary to remove the needle for technical reasons, or
 - (b) the registered podiatrist is performing a procedure where a needle is required to be bent.
- (4) Subclause (3) does not apply to an acupuncture needle.
- (5) A needle must not be bent after it is contaminated with blood or body substances.
- (6) In any case where resheathing of a needle is required:
 - (a) the needle must be properly recapped, and
 - (b) the sheath must not be held in the fingers, and
 - (c) either a single handed technique or forceps, or a suitable protective guard designed for the purpose, must be used.
- (7) Reusable sharps must, immediately after being used, be placed in a puncture resistant container specially kept for that purpose and labelled as such.

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- (8) Non-reusable sharps must, immediately after being used, be disposed of in a puncture resistant container.

8 Management of waste

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

Part 3 Specific standards applying to registered podiatrists

9 Sterile medications and solutions

- (1) A sterile needle and syringe must be used to withdraw any medication or solution from a vial or ampoule (or other similar container).
- (2) The needle and syringe must be discarded once the needle and syringe have been used.
- (3) A medication or solution may be taken from a multi-dose vial or ampoule (or other similar container) only if the medication or solution is not reasonably available in another form.
- (4) Precautions must be taken to ensure that contaminated material or fluid is not injected into a multi-dose vial or ampoule (or other similar container).

10 Invasive procedures

- (1) In cases where it is technically feasible, retractors must be used for exposure and access during an invasive procedure.
- (2) Fingers must not be used for the purposes of an invasive procedure to expose or increase access for the passage of a suture.
- (3) Only one sharp at a time is to be placed in a puncture resistant tray that is being used in connection with an invasive procedure.
- (4) Forceps or a needle holder must be used when carrying out suturing both to pick up the suture needle and to draw it through tissue.

Part 4 Processing of instruments and equipment

11 Interpretation

In this Part:

AS/NZS 4187 means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities.*

AS/NZS 4815 means AS/NZS 4815:2001, *Office-based health care facilities not involved in complex patient procedures and processes—Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of the associated environment.*

12 Cleaning of instruments and equipment

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning:
 - (a) must involve water and mechanical or physical action (such as washing machines) and a cleaning agent (with the cleaning agent being removed from instruments and equipment by rinsing), and
 - (b) must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (4) In this clause, *cleaning agent* means a detergent and includes proteolytic enzyme substances.

13 Disinfection of instruments and equipment

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must, before it is used, be disinfected with a disinfectant specified in the Australian Register of Therapeutic Goods that is maintained under the *Therapeutic Goods Act 1989* of the Commonwealth, and the relevant manufacturer's instructions must be followed.
- (2) The process of disinfection:
 - (a) must involve either thermal methods or (if thermal methods are unsuitable) chemical methods, and
 - (b) must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

14 Sterilisation of instruments and equipment

- (1) Any instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances, or the vascular system of a patient, must be sterilised before it is used.
- (2) The method of sterilisation must be:
 - (a) compatible with the particular type of instrument or equipment concerned, and
 - (b) consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
 - (a) the relevant manufacturer's instructions must be followed,
 - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Sterilizer Tests and Test Frequencies of AS/NZS 4815.