

Physiotherapists Regulation 2008

[2008-363]



New South Wales

Status Information

Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Parliamentary Electorates and Elections Amendment Act 2006 No 68](#) (amended by [Statute Law \(Miscellaneous Provisions\) Act 2009 No 56](#) and [Health Practitioner Regulation Amendment Act 2010 No 34](#)) (not commenced)
- **Repeal**
The Regulation was repealed by Sch 3 to the [Health Practitioner Regulation Amendment Act 2010 No 34](#) with effect from 1.7.2010.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 July 2010

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New South Wales

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Physiotherapists Regulation 2008



New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the [Physiotherapists Act 2001](#).

REBA MEAGHER, M.P., Minister for Health

Part 1 Preliminary

1 Name of Regulation

This Regulation is the [Physiotherapists Regulation 2008](#).

2 Commencement

This Regulation commences on 1 September 2008.

Note—

This Regulation replaces the [Physiotherapists Regulation 2002](#) which is repealed on 1 September 2008 under section 10 (2) of the [Subordinate Legislation Act 1989](#).

3 Definition

(1) In this Regulation:

the Act means the [Physiotherapists Act 2001](#).

(2) Notes in this Regulation do not form part of this Regulation.

Part 2 Proceedings of Board

4 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 of the Board 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 of the Board 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 of the Board 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 of the Board present.

7 Transaction of business by telephone, closed-circuit television or other means

- (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 Miscellaneous

8 Information to be specified in annual return

For the purposes of section 21 (1) (l) of the Act, the return must specify the following information:

- (a) whether the registered physiotherapist has practised as a physiotherapist during the return period,
- (b) if so, the period of practice, and whether the physiotherapist practised full-time or part-time,
- (c) if the physiotherapist practised part-time, the approximate number of hours per week that the physiotherapist practised,
- (d) whether the physiotherapist engaged in any university or other tertiary studies related to the practise of physiotherapy during the return period.

9 Excluded offences

- (1) Sections 21 (1) (a), 22 (1) (a) and 23 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 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998*,
- (b) an offence under section 171 (2) of the *Road Transport (General) Act 2005*,
- (c) an offence under section 9, 12 (1), 42 (2), 43 or 70 of the *Road Transport (Safety and Traffic Management) Act 1999*,
- (d) an offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999*, but only if the registered physiotherapist is, by way of penalty, sentenced to imprisonment or fined a sum of not less than \$200,
- (e) any other offence under the road transport legislation if the court orders the disqualification of the registered physiotherapist from holding a driver licence.

10 Notice of mental incapacity of registered physiotherapist

- (1) For the purposes of section 24 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 physiotherapist who is a mentally incapacitated person and becomes a patient at a mental health facility because of that incapacity—the medical superintendent of the facility, or
 - (b) in the case of a registered physiotherapist who is a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 24 of the Act is to be given by telephone within 1 day, and by post within 7 days, after the registered physiotherapist is admitted to the facility or becomes a protected person, and is to specify the following:
 - (a) the name and residential address of the physiotherapist,
 - (b) the date on which the physiotherapist was admitted to the facility at which the physiotherapist 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 Notification of change of mailing address

A registered physiotherapist who changes his or her mailing address is to notify the Board of the change within a reasonable time.

12 Appeal on point of law

An appeal referred to in section 78 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 78 (1), 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.

13 Election of Board members

For the purposes of section 88 (1) (a) of the Act, the election of elected members of the Board is to be held and conducted in the manner set out in Schedule 1.

14 Advertising

A person must not advertise physiotherapy 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 physiotherapy services.

Maximum penalty: 10 penalty units.

15 Fees

- (1) For the purposes of clause 21 (5) of Schedule 1 to the Act, the maximum fee the Board may charge for an inspection of the Register is \$20.
- (2) For the purposes of clause 22 (3) of Schedule 1 to the Act, the fee to record additional particulars in the Register is \$20.

16 Infection control standards

- (1) A physiotherapist must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 2 to the extent that they apply to the physiotherapist in the practice of physiotherapy.

(2) In determining whether or not a physiotherapist has a reasonable excuse for failing to comply with an infection control standard, particular consideration is to be given to the following:

- (a) whether the circumstances involved the provision of emergency treatment,
- (b) whether the physiotherapist's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the physiotherapist to comply with the infection control standard and whether the failure to provide such equipment was reported by the physiotherapist to the Director-General.

17 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Physiotherapists Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Election of Board members

(Clause 13)

1 Definitions

In this Schedule:

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations for the election.

close of the ballot for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

election means an election conducted under section 88 (1) (a) of the Act for the purpose of electing members of the Board.

inner envelope and **outer envelope** have the same meanings as in clause 7.

qualified voter means a person who is a registered physiotherapist at the time that the Registrar is notified by the returning officer under clause 6.

returning officer means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer for an election.

2 Notice of election

(1) The returning officer must, as soon as practicable after being notified in writing by or

on behalf of the Minister that an election is required to be held, cause to be published in the Gazette and in at least one daily newspaper circulating generally in New South Wales a notice that:

- (a) states that an election is to be held, and
 - (b) calls for the nomination of candidates, and
 - (c) advises where nomination forms may be obtained, and
 - (d) states the place where nominations may be lodged, and
 - (e) fixes the times and dates for the close of nominations, and
 - (f) fixes the times and dates for the close of the ballot (being at least 60 days after the date on which the notice is published).
- (2) The returning officer may, by a further notice published in accordance with this clause, fix a later time and date for the close of nominations.

3 Nominations

- (1) A nomination must be lodged with the returning officer before the close of nominations and must set out the following particulars:
 - (a) the full name of the candidate nominated,
 - (b) the residential address of that candidate,
 - (c) an endorsement of that candidate's consent to his or her nomination,
 - (d) the full names, residential addresses and signatures of at least 2 nominators, being registered physiotherapists other than that candidate.
- (2) A nomination may only be made in respect of a candidate who is qualified to be elected in the election.
- (3) A candidate may withdraw his or her nomination for an election by notification in writing delivered to the returning officer at any time until the close of nominations for the election.

4 Candidate information sheet

- (1) A candidate for election may, at any time before the close of nominations, submit in writing to the returning officer information intended for inclusion in a candidate information sheet.
- (2) As soon as practicable after the close of nominations, the returning officer must, if a ballot is required to be held for the election, draw up a candidate information sheet consisting of the information, if any, submitted to the returning officer under this

clause.

- (3) The returning officer may, when drawing up a candidate information sheet, reject any information submitted if the returning officer considers that the information is:
 - (a) inappropriate for inclusion in a candidate information sheet, or
 - (b) misleading in a material particular, or
 - (c) more than 100 words in length.
- (4) If the returning officer rejects information under subclause (3), he or she is to give the candidate notice that the information is unsuitable and give the candidate 7 days to provide suitable information.
- (5) If the candidate does not provide information that the returning officer considers to be suitable within those 7 days, no information about the candidate is to be included on the candidate information sheet.
- (6) Information concerning candidates must appear on a candidate information sheet in the same order in which the candidates are listed on the ballot-paper relating to them.
- (7) The returning officer must not include on the candidate information sheet any non-business telephone number or email address, or residential address, of a candidate.

5 Procedure on close of nomination

- (1) If, after the close of nominations, there is not a greater number of persons nominated than are required for election, the returning officer is to declare those persons duly elected.
- (2) If, after the close of nominations, the number of persons nominated is greater than the number required for election, a ballot is to be held.

6 Electoral roll

- (1) As soon as practicable after it becomes apparent that a ballot must be held for an election, the returning officer must notify the Registrar:
 - (a) that a ballot is to be held for the election, and
 - (b) that an electoral roll for the election is required.
- (2) The Registrar must (within 7 days) provide the returning officer with:
 - (a) a roll containing the full names (consecutively numbered and listed in alphabetical order) and addresses of each person who is a qualified voter, and
 - (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that roll.

7 Conduct of ballot

- (1) If a ballot is to be held, the returning officer:
 - (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and
 - (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be sent to each qualified voter, and
 - (c) if a candidate information sheet has been drawn up, must cause sufficient copies of it to be printed so that a copy can be sent to each qualified voter.
- (2) The ballot-paper must contain:
 - (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square opposite each name, and
 - (b) if the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
 - (c) directions as to the manner in which a vote is to be recorded and returned to the returning officer.
- (3) The returning officer must, at least 20 days before the date fixed for the close of the ballot, post to each qualified voter:
 - (a) a ballot-paper initialled by the returning officer, and
 - (b) an envelope marked "ballot paper only" (the **inner envelope**),
 - (c) a business reply envelope (the **outer envelope**) addressed to the returning officer containing on the rear flap spaces for the insertion of a voter's name, address and signature, and
 - (d) where appropriate, a candidate information sheet relating to the candidates included in the poll.
- (4) In order to vote at an election, a qualified voter:
 - (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
 - (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the inner envelope, and

- (c) must seal the inner envelope, and
 - (d) must complete, on the back of the inner envelope, the person's full name and address as it appears on the roll, and
 - (e) must sign, the back of the inner envelope, and
 - (f) must place the inner envelope inside the outer envelope, and
 - (g) must return the outer envelope containing the inner envelope to the returning officer so as to be received before the close of the ballot.
- (5) The returning officer may, on written application made to the returning officer, and if satisfied that a ballot-paper has been lost or destroyed, supply a duplicate ballot-paper to the person to whom the lost or destroyed ballot-paper was issued.
- (6) An election is not invalid because:
- (a) a qualified voter did not receive a ballot-paper, or
 - (b) the returning officer did not receive a ballot-paper sent to the returning officer.

8 Examination of envelopes

- (1) The returning officer must, as soon as practicable after the receipt of an outer envelope purporting to contain an inner envelope:
- (a) open the outer envelope and remove the inner envelope, and
 - (b) examine the inner envelope for the purpose of deciding whether to accept or reject the inner envelope.
- (2) The returning officer is to reject an inner envelope if:
- (a) the envelope does not have legibly marked on its rear flap a name, address and signature that appear to the returning officer to be those of a qualified voter, or
 - (b) the envelope is not sealed, or
 - (c) the envelope is received by the returning officer after the close of the ballot.

9 Scrutiny of votes

- (1) The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.
- (2) The scrutiny of votes is to be conducted as follows:
- (a) the returning officer is to produce, unopened, all the inner envelopes received (except those envelopes rejected under clause 8 (2)),

- (b) the returning officer is then to open each envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
 - (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers,
 - (d) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (e) the returning officer is then to proceed to count the votes in accordance with clause 10 and ascertain the result of the election.
- (3) The returning officer is to reject a ballot-paper as being informal if:
- (a) the ballot-paper contains any matter by which the voter may be identified, or
 - (b) the ballot-paper is not completed in accordance with the directions printed on the ballot-paper.
- (4) Each candidate is entitled to appoint a scrutineer to represent the candidate at all stages of the scrutiny.
- (5) A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

10 Method of voting and counting

- (1) At an election a qualified voter is:
- (a) required to record a vote for 3 candidates, and
 - (b) permitted to record a vote for as many more candidates as the voter pleases,
- so as to indicate, in such manner as is required by this Part, the candidates for whom the voter votes and the order of the voter's preference for them.
- (2) Ballot-papers must be counted, and the candidates who are elected determined, by the returning officer according to an optional multi-preferential system in which the first, second and third preference votes (represented by the numbers "1", "2" and "3", respectively, marked on the ballot-paper) are regarded as primary votes.

11 Returning officer's decision final

If the returning officer is by this Regulation permitted or required to make a decision on any matter relating to the conduct of an election under this Schedule, the decision of the returning officer on that matter is final.

12 Report of election

When he or she first ascertains the result of an election, the returning officer must furnish a report, in writing, of the result to the Minister and the Registrar and must cause the result to be published in the Gazette and in at least one daily newspaper circulating generally in New South Wales.

13 Death of a candidate

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and must be taken again.

Schedule 2 Infection control standards

(Clause 16)

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 a person who is accessing physiotherapy or health services or who is undergoing any physiotherapy 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 physiotherapist who is assisting in performing a procedure in the same way as they apply to a physiotherapist who is actually performing the procedure.

Part 2 General infection control standards applying to

physiotherapists

2 General precautions and aseptic techniques

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or other body substance. 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 other body substances.
- (2) Subclause (1) does not apply in circumstances where physiotherapy treatment is required to be performed urgently and cleaning facilities are not readily available.
- (3) Hands may be cleaned by:
 - (a) using washing facilities involving water and a soap or antiseptic, or
 - (b) using non-water cleansers or antiseptics.
- (4) Hands or other skin surfaces that are contaminated with a patient's blood or other body substance must be cleaned as soon as it is practicable to clean them.
- (5) 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 other body substances.

5 Gloves

- (1) Gloves must be worn while handling blood or other body substances.
- (2) In particular, gloves must be worn:
 - (a) during any procedure where direct contact is anticipated with a patient's blood or other body substance, mucous membranes or non-intact skin, and
 - (b) while suctioning a patient, and

- (c) while handling items or surfaces that have come into contact with blood or other body substances, and
 - (d) while performing an invasive procedure, venipuncture or a finger or heel stick.
- (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
- (4) Gloves must be discarded:
- (a) as soon as they are torn or punctured, and
 - (b) after contact with each patient.
- (5) Nothing in subclause (4) affects the operation of subclauses (1)-(3).
- (6) 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 other body substances.
- (2) A mask must be worn when in close contact with patients known by the physiotherapist to have an infectious disease (or suspected by the physiotherapist 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 physiotherapist 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 physiotherapist is performing a procedure in which the needle is required to be bent.
- (4) A needle must not be bent after it is contaminated with blood or other body substances.
- (5) 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, forceps or a suitable protective guard designed for the purpose must be used.
- (6) Reusable sharps must, immediately after being used, be placed in a puncture resistant container specially kept for that purpose and labelled as such.
- (7) Non-reusable sharps must, immediately after being used, be disposed of in a puncture resistant container.

8 Management of clinical 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.

Note—

The disposal of clinical waste is regulated by the [Protection of the Environment Operations Act 1997](#) and the regulations under that Act.

- (2) Splashing or contamination of skin while disposing of blood or other body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

Part 3 Processing of instruments and equipment

9 Definitions

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 4815:2006, *Office-based health care facilities—Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment.*

10 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 physical or mechanical 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.

11 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.

12 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 Performance Testing, Monitoring, Calibration and Maintenance of Sterilizers of AS/NZS 4815.

13 Respiratory equipment

- (1) Any respiratory equipment that is designed for single use must be discarded once it is used.
- (2) Any other respiratory equipment must be cleaned and disinfected after each time the equipment is used.