



**Independent review of the regulation of podiatric surgeons:
Consultation paper**

20 October 2023

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Overview

The purpose of this public consultation paper is to seek views and information from a wide range of stakeholders about the regulation of podiatric surgeons in Australia by the Podiatry Board of Australia (the Podiatry Board) and the Australian Health Practitioner Regulation Agency (Ahpra).

This public consultation is part of an independent review of the regulation of podiatric surgeons commissioned by the Podiatry Board and Ahpra.

This paper provides information about how to make a submission and a brief background on podiatric surgery in Australia. It also outlines the role of the Podiatry Board and Ahpra and in regulating podiatric surgeons and the broader regulatory landscape of which the Podiatry Board and Ahpra are just one part.

The review

This review into the regulation of podiatric surgeons was announced on 5 October 2023. The terms of reference for the review are available [on the Podiatry Board's website](#). The review will look at the current regulatory framework and any risks to patient safety in podiatric surgery, to ensure the appropriate standards, guidance and processes are in place to support safe podiatric surgery practice by podiatric surgeons in Australia and to identify any areas that need improving.

Specifically, the review will inquire into and report on the regulation of podiatric surgeons by the Podiatry Board, focussing on:

- standards, supporting guidance and professional capabilities which aim to ensure that podiatric surgeons practise podiatric surgery safely within the scope of their qualifications, training and experience
- the risk assessment of notifications about podiatric surgeons
- the Ahpra investigation protocol with regard to podiatric surgeons
- the management of advertising offences, and
- opportunities for changes, clarifications or further actions in relation to the current regulatory approach to podiatric surgeons.

The review will help ensure that the Podiatry Board and Ahpra can meet their statutory objective to provide for the protection of the public by ensuring that only practitioners who are suitably trained and qualified to practise podiatric surgery in a competent and ethical manner are registered.

In making recommendations, the reviewer will also consider approaches adopted by professional regulators in other countries.

The review is being undertaken by Professor Ron Paterson.

Professor Paterson is an Emeritus Professor of Law at the University of Auckland and Senior Fellow at the University of Melbourne. He has previously held the positions of New Zealand Health and Disability Commissioner and New Zealand Parliamentary Ombudsman. With law degrees from Auckland and Oxford universities, he has held Fulbright and Harkness fellowships in biomedical ethics and health policy. He has researched and lectured in the United Kingdom, the United States, Canada and Australia, and is an international expert on patients' rights, complaints, safety and quality and the regulation of health professions.

How to make a submission

You are invited to have your say about the regulation of podiatric surgeons in Australia, by making a submission to this independent review.

The independent reviewer is keen to hear from a wide range of interested people. Submissions are being sought from the public, health practitioners and organisations. The reviewer wants to hear from all stakeholders, including people who have had podiatric surgery, consumer representative groups, health practitioners, professional bodies and agencies who operate within the broader regulatory framework.

Information, experiences and ideas gained through this consultation process will be important to the review.

The closing date for submissions is **16 November 2023**.

The review will provide a draft report on its findings and recommendations to the Podiatry Board and Ahpra by the end of 2023.

Consultation questions

The key questions, on which the reviewer seeks your views, are:

1. Do you think the way podiatric surgeons are currently regulated in Australia ensures consumers are well informed and receive appropriate care from podiatric surgeons who are suitably trained and qualified to practise in a safe, competent and ethical manner?
2. Do you have any suggestions to improve the current system for regulating podiatric surgeons?

More detailed consultation questions are included throughout the consultation paper and listed in full at Appendix 1.

Submissions can address any or all of these questions, and you are invited to include evidence or examples. A template is available to help you respond to the questions, or you may choose to use your own format.

Submission address

You can email your submission electronically to:

Professor Ron Paterson
Independent reviewer
podiatricssurgeryreview@ahpra.gov.au

If you are unable to provide your submission via email, please send your written submission to:

Professor Ron Paterson
Independent Reviewer
Independent review of the regulation of podiatric surgery
c/o Ahpra
GPO Box 9958
Melbourne VIC 3001

Confidentiality and the publication of submissions

At the end of the consultation period, submissions (other than those made in confidence) will be published on the Ahpra website to encourage discussion and inform the community and stakeholders about consultation responses.

The review will accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982 (Cth)*, which has provisions designed to protect personal information and information given in confidence. **Please let us know if you do not want us to publish your submission or want us to treat all or part of it as confidential.**

We will not place on the website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove identifying information from submissions, including contact details.

The views expressed in the submissions are those of the individuals or organisations who submit them, and their publication does not imply any acceptance of, or agreement with, these views by the review.

Published submissions will include the names of the individuals and/or the organisations that made the submission, unless confidentiality is requested. If you do not wish for your name and/or organisation's name to be published, please use the words '**Confidential submission**' in the subject title when emailing your submission.

Background

A podiatric surgeon is a podiatrist who holds specialist registration with the Podiatry Board for the podiatry specialty of podiatric surgery. Podiatric surgeons treat and manage conditions affecting the foot, ankle and related lower extremity structures, both surgically and non-surgically.¹

Podiatric surgery has been performed by podiatrists in Australia since the 1970's. Podiatric surgeons were originally called *surgical podiatrists* and in the 1990's the terminology changed to *podiatric surgeon*.

Before the start of the [National Registration and Accreditation Scheme](#) (National Scheme) in 2010, specialist registration for podiatric surgeons was available in two states (South Australia and Western Australia) and specialist registration was available in the Australian Capital Territory.

In the states without specialist registration (Tasmania, Victoria, New South Wales and Queensland) the relevant regulation authority for the podiatry profession formally recognised the extended scope of practice of podiatric surgery through board policy. Registered podiatrists who complied with the requirements of the board's policy on podiatric surgery were permitted to have an extended scope of practice in their jurisdiction.

In 2010, the Ministerial Council approved that specialist registration would operate for the podiatry specialty of podiatric surgery from the commencement of the National Scheme on 1 July 2010. Ministerial Council also approved the specialist title of *podiatric surgeon*.

Eighteen podiatric surgeons transitioned to the National Scheme with specialist registration or were granted specialist registration in the first year of the scheme.

There are now 41 podiatrists in Australia holding specialist registration as a podiatric surgeon.² They represent 0.7 per cent of the podiatry profession. Podiatric surgeons mainly work in private practice and perform surgery in private hospitals and day procedure centres. Podiatric surgeons generally work as part of a surgical team, which includes anaesthetists and other medical practitioners, surgical assistants, including podiatric surgeon registrars or students, and nursing and hospital administration staff.

While podiatric surgeons are a small sector of the podiatry profession, they have a much higher rate of notifications than podiatrists.³ This has prompted the Podiatry Board to commission this review into the regulation of podiatric surgery, to ensure that patients are receiving good information and appropriate care from podiatric surgeons.

The review is an opportunity to examine the Podiatry Board and Ahpra's current regulatory framework for podiatric surgeons to determine if any changes are required to better protect the public.

¹ Podiatry Board's [Professional capabilities for podiatric surgeons](#).

² As of 30 June 2023.

³ Notifications are discussed in more detail in *Management of notifications* section of this paper.

How are podiatric surgeons regulated in Australia?

Podiatric surgeons are regulated by the [Podiatry Board](#) and [Ahpra](#) who work in partnership to ensure the community has access to safe podiatric surgery services.

The functions of the Podiatry Board include:

- registering podiatrists, podiatric surgeons and students
- developing standards, codes and guidelines for the podiatry profession
- handling notifications, complaints, investigations and disciplinary hearings
- assessing overseas trained podiatrists and podiatric surgeons who wish to practise in Australia, and
- approving accreditation standards and accredited courses of study.

Other legal and regulatory requirements

In addition to complying with the requirements set out in the Health Practitioner Regulation National Law as in force in each state and territory (the National Law), podiatric surgeons must comply with other legal, regulatory and professional requirements, responsibilities and guidelines, including:

- all other relevant Commonwealth, state and territory legislation
- laws relating to negligence, civil liability and criminal law
- relevant national safety and quality standards, including those published by the Australian Commission on Safety and Quality in Health Care, the National Disability Insurance Scheme Quality and Safeguards Commission and the Aged Care Quality and Safety Commission
- Australian Consumer Law, which is administered by the Australian Competition and Consumer Commission, and which promotes competition and fair trading and consumer protection
- the safe and effective use of pharmaceutical products
- restrictions on importing, exporting and using medicines and medical devices, as regulated by the Therapeutic Goods Administration
- state and territory laws about the licensing of private hospital and day procedure centres
- data privacy and the ownership, storage, retention and destruction of patient records and other practice documents, and
- reporting obligations, including those in the [Guidelines: Mandatory notifications about registered health practitioners](#).

Registration

To be granted specialist registration as a podiatric surgeon in Australia, a podiatrist must meet the eligibility requirements for specialist registration in the National Law, which includes being qualified and suitable for this type of registration.

An applicant for specialist registration must also:

- meet the requirements of the Podiatry Board's *Registration standard for specialist registration for the podiatry specialty of podiatric surgery* and other relevant registration standards including those for recency of practice, continuing professional development, professional indemnity insurance arrangements, and English language skills
- have completed training in advanced life support conducted by an approved training organisation
- commit to having appropriate professional indemnity insurance arrangements in place for all practice during the registration period
- commit to comply with the *Australian National Guidelines for the management of healthcare workers living with blood borne viruses and healthcare workers who perform exposure prone procedures at risk of exposure to blood borne viruses*
- provide information about any impairment that detrimentally affects, or is likely to detrimentally affect, their capacity to practise the profession.

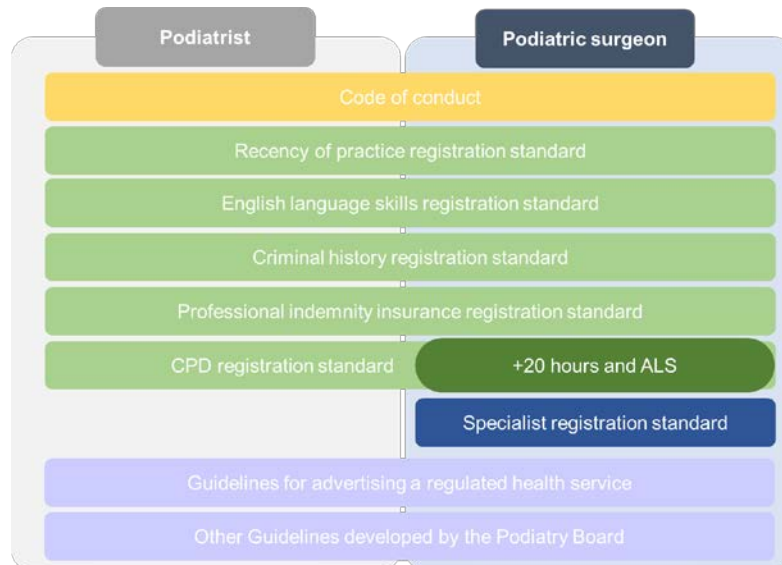
Consultation question

3. Do you have any concerns about the registration requirements for podiatric surgeons? Are any changes needed, and why?

Standards, codes and guidelines

The Podiatry Board, with the support of Ahpra, is responsible for developing and approving registration standards, codes and guidelines to provide appropriate guidance to registered podiatrists and podiatric surgeons. The standards, codes and guidelines are designed to set standards for registration or endorsement of registration and provide guidance to support safe practice. They include:

- **Registration standards** that set out the requirements that applicants for registration and registered podiatrists and podiatric surgeons need to meet to be registered or have their registration endorsed.
- **Guidelines** to provide guidance to the profession.
- **Code of conduct** that sets out the Board's expected standards of professional conduct.



Registration standards

Registration standard for specialist registration

In 2015 the Podiatry Board published the [Podiatry registration standard for specialist registration for the podiatry specialty of podiatric surgery](#) (the registration standard). This standard sets out the requirements that a podiatrist must meet to be granted specialist registration to practise as a podiatric surgeon in Australia and the ongoing requirements to maintain specialist registration.

The registration standard requires that a podiatrist must:

- meet the eligibility requirements for specialist registration as defined by section 57 of the National Law
- hold an approved qualification for the speciality of podiatric surgery (see below for information on qualifications), and
- provide evidence of having completed a minimum of two years' full-time (or equivalent) general podiatry practice in a clinical setting.

In mid-2021, the Podiatry Board commenced a scheduled review of the current registration standard and consulted with key stakeholders from November 2021 to February 2022 and from May to July 2022. The Podiatry Board decided to delay publication of any revised registration standard pending the findings and recommendations from this review.

Other registration standards

The Podiatry Board has also published mandatory registration standards which apply to all podiatrists and podiatric surgeons. These set out the requirements for:

- continuing professional development (CPD)
- recency of practice
- professional indemnity insurance arrangements
- English language skills, and

- criminal history.

Under the Podiatry Board's [current CPD registration standard](#) all podiatrists and podiatric surgeons must complete at least 20 hours of CPD each year. Podiatric surgeons must complete an additional 20 hours related to their podiatric surgery practice.

They must also have completed training in advanced life support provided by an approved training organisation and, if their registration is endorsed for scheduled medicines, they must complete an additional ten hours related to the endorsement.

The CPD must:

- include a range of activities from the categories set out in the Podiatry Board's [Guidelines for continuing professional development](#)
- include a minimum of five hours in an interactive setting with other practitioners, such as face-to-face education, and
- have a focus on aspects of podiatry practice that are relevant to their area of professional practice and have clear learning aims and objectives that meet the requirements.

Codes and guidelines

The Podiatry Board has developed codes and guidelines to provide guidance to the profession. The codes and guidelines cover topics such as the use of social media by health practitioners, working with podiatric assistants, keeping and managing health records, and mandatory notifications. They also include a code of conduct and professional capabilities for the profession.

Code of conduct

Twelve National Boards, including the Podiatry Board share the [Code of conduct](#) (the Code) for the practitioners that they regulate. The Code describes the professional behaviour and conduct that National Boards expect from registered health practitioners. By defining these expectations, the Code supports good patient care within an ethical framework, helping to keep the public safe. Practitioners have a professional responsibility to be familiar with and to apply the Code.

Scope of practice

The National Law is based on a title protection model rather than specifying what health practitioners can and cannot do (see Advertising restriction section below). Along with other health practitioners in the National Scheme, podiatric surgeons are responsible for determining their own scope of practice, based on their qualifications, skills and experience and ethical responsibilities and obligations set out in the Code of conduct. This includes maintaining adequate knowledge and skills to provide safe and effective care; recognising and working within the limits of their competence and scope of practice; and practising in accordance with the current and accepted evidence base of the health profession.

Professional capabilities

New [Professional capabilities for podiatric surgeons](#) came into effect on 1 January 2022. Professional capabilities identify the knowledge, skills and professional attributes needed to safely and competently practise as a podiatrist or podiatric surgeon in Australia. They describe the threshold or minimum level of professional capability required to be registered.

The professional capabilities can be used by the Podiatry Board to:

- register suitably qualified and competent individuals as podiatric surgeons
- re-register individuals who were previously registered as podiatric surgeons in Australia
- assess overseas qualified practitioners seeking registration in Australia, and
- evaluate a podiatric surgeon whose level of competence to practise may pose a risk of harm to the public, for example, if the Podiatry Board receives a complaint or notification about the podiatric surgeon.

Consultation questions

4. Do the Podiatry Board's current standards, codes and guidelines help ensure podiatric surgeons perform podiatric surgery safely?

5. Do the current professional capabilities for podiatric surgeons appropriately describe the knowledge and skills required of podiatric surgeons for safe practice?

6. Are any changes to the standards, codes and guidelines needed? If so, why? What additional areas should the standards, codes and guidelines address to ensure safe practice?

Education, training and qualifications

Education pathway to qualification as a podiatric surgeon

The pathway to becoming qualified for specialist registration as a podiatric surgeon in Australia is:

1. complete study to become a registered podiatrist
2. complete at least two years full-time (or equivalent) general podiatry practice in a clinical setting before starting a program of study that leads to a qualification for specialist registration as a podiatric surgeon, and
3. complete an approved program of study in podiatric surgery.

Accreditation and approval of programs of study

Accreditation of a podiatric surgery program plays a key role in safeguarding the public. It seeks to ensure that:

- all students graduating from the accredited podiatric surgery program have the knowledge, skills and professional attributes needed to safely and competently practise as a podiatric surgeon in Australia, and
- only those practitioners who are suitably trained and qualified to practise are registered as a podiatric surgeon.

[Accreditation standards for podiatric surgery](#) require education providers to design and implement a program where the curriculum maps to the professional capabilities for podiatric surgeons.

The [Podiatry Accreditation Committee](#)⁴ accredits education programs that meet the accreditation standards and monitors approved programs and education providers to ensure they meet and continue to meet the accreditation standards. Graduates of an accredited and approved podiatric surgery program are qualified for specialist registration as a podiatric surgeon.

The Podiatry Board decides whether to approve an accredited program of study as providing a qualification for specialist registration based on a report from the accreditation authority.

At present there are two programs of study approved by the Podiatry Board for podiatric surgery:

- Fellowship of the Australasian College of Podiatric Surgeons.
- Doctor of Podiatric Surgery, University of Western Australia.

Consultation question

7. Do you have any concerns about education and training for podiatric surgeons? Are any changes needed, and why?

Management of notifications

Ahpra and the National Boards are responsible for receiving and managing notifications about the performance, conduct and health of registered health practitioners in the National Scheme, including podiatrists and podiatric surgeons in all states and territories, except in NSW and Queensland.⁵

In NSW, the relevant health profession councils work with the Health Professional Councils Authority and the Health Care Complaints Commission to manage concerns about the conduct, health and performance of practitioners in that state.

⁴ The Podiatry Accreditation Committee was established by the Podiatry Board under section 43 of the National Law and has been undertaking the accreditation functions for the podiatry profession since 1 July 2019.

⁵ Part 8 of the National Law.

In Queensland, the Office of the Health Ombudsman receives notifications about registered health practitioners. Some notifications are referred to Ahpra and the relevant National Board to manage.

A notification can be made by any person who has a complaint or concern about a health practitioner. Ahpra and the Podiatry Board work with health complaints entities in each state and territory to decide which body deals with a complaint/notification about podiatric surgeons.⁶

Podiatric surgeons have a much higher rate of notifications than podiatrists. Over the period 1 July 2010 to 30 June 2023, podiatric surgeons had a notification rate eight times higher than the rate for podiatrists.⁷

The review will examine podiatric surgery notifications data more closely, but some common concerns raised include:

- performing an inadequate or inappropriate procedure or treatment
- making an incorrect diagnosis
- fees or billing practices
- breaching a registration standard, and
- advertising practices.

When assessing a notification about a practitioner, Ahpra and the Podiatry Board use a risk-based assessment that considers the:

- specific concerns raised to assess if the knowledge, skill or judgement possessed, or care exercised by the practitioner is below a reasonable standard
- type of practice engaged in, including the inherent risk and the relevant standards or guidelines
- practice setting, including the vulnerability of patient groups and whether the practitioner has access to professional peers and support, and
- practitioner themselves, including their regulatory history and the actions they have taken in response to the concern.⁸

Consultation question

8. Do you have any concerns about the approach used by Ahpra and the Podiatry Board to manage notifications about podiatric surgeons, including the risk assessment process?

Advertising restrictions

The National Law establishes the requirements for advertising a regulated health service. These requirements are important for public protection and help ensure the public receives accurate and honest information about healthcare services.

The [Guidelines for advertising a regulated health service](#) explain the obligations under the National Law that apply to any person or business advertising a regulated health service. The guidelines are designed to help practitioners and other advertisers understand their obligations when advertising a regulated health service.⁹

Under section 133 of the National Law, advertising must not:

- be false, misleading or deceptive, or likely to be misleading or deceptive
- offer a gift, discount or other inducement, unless the terms and conditions of the offer are also stated
- use testimonials or purported testimonials about the service or business
- create an unreasonable expectation of beneficial treatment
- directly or indirectly encourage the indiscriminate or unnecessary use of regulated health services.

Ahpra and the National Boards take a risk-based approach to advertising compliance and enforcement.¹⁰ This means that different actions may be taken depending on the assessment of the risk and the response of the advertiser. Most cases start with Ahpra writing to the advertiser to let them know their advertising

⁶ Pursuant to section 150 of the National Law.

⁷ Ahpra data.

⁸ More information about risk assessment is available on Ahpra's [website](#).

⁹ A suite of resources on advertising for practitioners and the public is available on Ahpra [Advertising Hub](#).

¹⁰ Further information is available on Ahpra [Advertising Hub](#).

breaches the National Law, providing them with education resources, and requiring them to correct it within 30 days.

Title protection

The National Law is based on a title protection model which means that, with very few exceptions, it regulates what health practitioners may call themselves, rather than specifying what they can and cannot do. Individuals who are not registered health practitioners or do not hold specialist registration or an endorsement to practise in a particular area of practice, must not 'hold themselves out' as having qualifications and skills they do not have.

Ahpra and the Podiatry Board can take disciplinary action against a registered practitioner who knowingly or recklessly claims to hold specialist registration or be qualified to practise as a specialist health practitioner in a recognised specialty which the practitioner does not hold.¹¹ Someone may be prosecuted if they use a title, name, initial, symbol, word or description that indicates or could be reasonably understood to indicate, that they are a specialist or authorised or qualified to practise in a recognised specialty.¹²

A number of specialist titles are protected under the National Law. It is an offence to use a protected title inappropriately.¹³ This includes the title 'podiatric surgeon' which must only be used by health practitioners who hold specialist registration in podiatric surgery.

Health practitioners must be careful about the use of titles in their advertising. While the title 'Doctor' is not a protected title, advertisers must be careful about how they use the term 'Doctor' or 'Dr' because the public historically associates the term with medical practitioners.

If the title 'Doctor' or 'Dr' is used in advertising and does not refer to a registered medical practitioner, then (regardless of whether a doctorate degree or PhD is held) it should be made clear which profession the practitioner is registered in, for example, Dr John Citizen (Podiatrist) or Dr Jane Citizen (Podiatric Surgeon). Podiatric surgeons must always use their full protected title of 'Podiatric Surgeon' when advertising.

Consultation question

9. Do you have any concerns about advertising by podiatric surgeons and the management of advertising offences?

Further comments or suggestions

Consultation question

10. Do you have any further comments or suggestions relevant to Ahpra's and the Podiatry Board's regulation of podiatric surgeons?

¹¹ Section 119 of the National Law.

¹² Section 118 of the National Law.

¹³ Sections 113 and 115 of the National Law.

Appendix 1 – consultation questions

1. Do you think the way podiatric surgeons are currently regulated in Australia ensures consumers are well informed and receive appropriate care from podiatric surgeons who are suitably trained and qualified to practise in a safe, competent and ethical manner?
2. Do you have any suggestions to improve the current system for regulating podiatric surgeons?
3. Do you have any concerns about the registration requirements for podiatric surgeons? Are any changes needed, and why?
4. Do the Podiatry Board's current standards, codes and guidelines help ensure podiatric surgeons perform podiatric surgery safely?
5. Do the current professional capabilities for podiatric surgeons appropriately describe the knowledge and skills required of podiatric surgeons for safe practice?
6. Are any changes to the standards, codes and guidelines needed? If so, why? What additional areas should the standards, codes and guidelines address to ensure safe practice?
7. Do you have any concerns about education and training for podiatric surgeons? Are any changes needed, and why?
8. Do you have any concerns about the approach used by Ahpra and the Podiatry Board to manage notifications about podiatric surgeons, including the risk assessment process?
9. Do you have any concerns about advertising by podiatric surgeons and the management of advertising offences?
10. Do you have any further comments or suggestions relevant to Ahpra's and the Podiatry Board's regulation of podiatric surgeons?