

NEW SOUTH WALES HEALTH PROFESSIONALS REGISTRATION BOARDS

GUIDELINES AND INFORMATION ON THE OPERATION OF MUTUAL RECOGNITION IN NEW SOUTH WALES

Mutual recognition of standards and regulations recognises a need for fundamental regulatory reform to enhance the flexibility and competitiveness of the Australian economy. Heads of Government signed an Intergovernmental Agreement on 11 May 1992 binding States and Territories and the Commonwealth to introducing legislation establishing a national market in goods and services.

Under the provisions of the Mutual Recognition Act, 1992 a person who has a current authority to practise in one State/Territory in an occupation recognised as equivalent to an occupation in another State/Territory, is eligible to be registered and to carry on that equivalent occupation in that second State or Territory. This right may be exercised provided that certain conditions, including lodgement of a statutory declaration (written notice), are met. From 1st May 1998 the Mutual Recognition arrangements have been extended to include New Zealand, under the Trans Tasman Mutual Recognition Act 1997.

Mutual Recognition provides an additional and alternative avenue for obtaining registration. Applicants have the choice of applying for registration under the Mutual Recognition Act or relevant New South Wales Registration Acts.

In New South Wales the written notice (application form) must be in accordance with Section 19 (2) of the Mutual Recognition Act 1992 or if applying from New Zealand under Section 18(2) of the Trans Tasman Mutual Recognition Act 1997. Application forms for registration in New South Wales are available from the appropriate registration authority listed below.

Mutual Recognition provides benefits to applicants, for example, from the date of lodgement of the application deemed registration is granted. Deemed registration entitles a person to practise in accordance with the laws of the state as if substantive (full) registration were granted.

Conditions may be applied to a persons deemed/substantive registration. A registration authority may also impose conditions or restrictions on the professional practice of an interstate registrant if it is of the view that this is necessary to achieve equivalence of occupation.

Applicants will receive a certificate of 'deemed registration' indicating the duration of and any conditions that apply to their practice.

Deemed registration continues until substantive registration is granted, or, until it is cancelled or refused by the relevant Board. Deemed registrants must be notified of such decisions within one calendar month from the deemed registration date. The Boards decision is subject to appeal.

Deemed registration automatically leads to substantive registration within one month of the grant of deemed registration if a written notice to the contrary has not been issued within this month by the local registration authority.

Substantive registration may be postponed or refused in cases where, for example, statements made in the application/notice are found to be materially false or misleading.

In New South Wales substantive registrants will be issued with a certificate and in due course, with an annual renewal notice.

Registrants whether deemed or substantive are subject to disciplinary procedures/arrangements under the law in the State in which they practise.

Temporary Registration

If you hold temporary registration in another jurisdiction of Australia or New Zealand and are seeking temporary registration in New South Wales under the Mutual Recognition Act 1992 or the Trans Tasman Mutual Recognition Act 1997 you need to contact the Board on (02) 9219 0255.

Review of Decisions/Costs

Subject to the Administrative Appeals Tribunal Act, 1975, applications may be made to the Tribunal for review of a decision of a local registration authority in relation to its functions under the relevant Mutual Recognition registration.

The Tribunal may order a party in proceedings before it to pay costs if the party has acted unreasonably.

Furnishing of Information

A local registration authority in one State must when requested provide information to another State's registration authority in regard to an application for registration.

The local registration authority as the recipient of this information is subject to any law relating to secrecy or confidentiality that applies under the law of the State under which the authority is constituted or exercises its functions.

Change of Name

Should you at any time change your name by marriage etc. please forward to the Board a photocopy of your marriage certificate, deed poll etc. to verify the change of name. Any photocopies should be certified by a Justice of the Peace or a solicitor. It is essential that you ensure that your name on the Register and the name on your application are the same.

Profession Indemnity Insurance

In accordance with the provisions of the Health Care Liability Act 2001 and Regulations, the Board may not register a person to practise physiotherapy in New South Wales unless it is satisfied that the person will be covered by professional indemnity insurance or that the person is exempt from that requirement under the Regulation.

Practising as a physiotherapist without being covered by professional indemnity insurance is, for the purpose of the Physiotherapists Act 2001, unsatisfactory professional conduct.

Fees

The fee payable for obtaining registration under Mutual Recognition and Trans Tasman Mutual Recognition is \$110.

* Holders of Temporary or Limited registration will be required to pay an application fee of \$70 and will be issued with temporary registration in NSW.

Compliance With The Privacy And Personal Information Act 1998

Your personal information is required by the Board to complete this application. Limited personal information may be provided to or accessed by any interested party to determine the registration status of the individuals.

(4) **Declaration of Criminal, Civil or Disciplinary Proceedings**

I am not the subject of disciplinary proceedings in any State/Territory/Country (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to the above occupation.

(5) **Cancellation or Suspension**

My registration has not been cancelled nor is it currently suspended in any State/Territory/Country as a result of disciplinary action.

(6) **Prohibitions/Special Conditions: Criminal/Civil or Disciplinary Proceedings**

I am not otherwise personally prohibited from carrying on the occupation for which registration is sought, in any State or Territory nor am I subject to any special conditions in carrying out that occupation, as a result of criminal, civil or disciplinary proceedings, in any State/Territory/Country.

(7) **Special Conditions**

Special conditions do not apply to my carrying out the occupation for which registration is sought. (If special conditions do apply please tick this box [] and attach details of these conditions)

(8) **Inquiries and Information Gathering**

I give consent to the making of inquiries of, and the exchange of information with, the authorities in any State/Territory/Country regarding my activity in the relevant occupation or otherwise regarding my application for registration.

(9) **Professional Indemnity Insurance**

My **Professional Indemnity Insurance** status is:

(a) **Approved Insurer** Provider: _____ Member Code: _____

(b) **Exempt (Refer to Clause 7, Health Care Liability Regulation 2007, attached):**

7(1)(a) <input type="checkbox"/> non-practising (Board imposed)	7(1)(e) <input type="checkbox"/> not providing health care
7(1)(b) <input type="checkbox"/> practice outside NSW	7(1)(f) <input type="checkbox"/> employee of public health organisation
7(1)(c) <input type="checkbox"/> not-practising	<input type="checkbox"/> government indemnity
7(1)(d) <input type="checkbox"/> indemnified employee	7(1)(g) <input type="checkbox"/> statutory liability protection

(c) **Other** (please specify) _____

(10) **Registration Fee**

I have included the registration fee of \$ _____ payable to the Board by Cheque, Money Order or Credit Card (Mastercard and Visa only).

Mastercard Visa

Card Number: _____

Card expiry date: ____ / ____

Card holders signature:..... Date:.....

CREDIT CARD PAYMENTS WILL NOT BE ACCEPTED BY TELEPHONE OR FACSIMILE.

(11) **I make this solemn declaration, as to the matter aforesaid, according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.**

Made and declared at _____

this _____ **day of** _____ **20** _____
before me

Justice of the Peace/Solicitor

Signature of Applicant

IMPORTANT

- **Statements or information which are materially false or misleading will result in postponement or refusal of registration.**
- **Please ensure your current Annual Practising Certificate indicating the expiry date is attached to this application.**
- **All attachments to this application must be certified by a Justice of the Peace or Solicitor.**
- **Fax copies of the application or the attachments will not be accepted.**

Professional Indemnity Insurance Requirements

The *Health Care Liability Regulation 2007* was implemented on 1 September 2007. The Regulation specifies the classes of health practitioners who are required under section 25 of *Health Care Liability Act* to be covered by approved professional indemnity insurance and the classes of health practitioners who are exempt from that requirement.

A copy of the relevant sections of the regulation plus a copy of section 25 of the *Health Care Liability Act 2001* (the Act) is enclosed for your information.

Section 25(2) of the Act provides that a person (declared by the regulation) is not entitled to practise as a health practitioner (in New South Wales) unless covered by professional indemnity insurance. Section 25(4) of the Act goes on to say that "Practising as a health professional without being covered by professional indemnity insurance is, for the purposes of the relevant health registration Act, (ie the *Physiotherapists Act 2001*), unsatisfactory professional conduct."

Section 25(3) of the Act prescribes that the appropriate registration authority (ie the Physiotherapists Registration Board):

- a) must not register a person as a health practitioner unless the authority is satisfied that the person will, while practising as a health practitioner (in New South Wales), be covered by professional indemnity insurance, and
- b) may cancel or suspend the registration of a person as a health practitioner if the authority is satisfied that the person is not covered by professional indemnity insurance while the person is practising as a health practitioner (in New South Wales).

Health Care Liability Regulation 2007

Part 3 Health practitioners

Clause 6 - Classes of health practitioner required to be covered by professional indemnity insurance

Section 25 of the Act applies to the following classes of health practitioner:

- | | | |
|--------------------|-------------------------|----------------------------|
| (a) chiropractors, | (b) dental auxiliaries, | (c) dental
prosthetists |
| (d) dentists, | (e) optometrists, | (f) osteopaths, |
| (g) pharmacists, | (h) physiotherapists, | (i) podiatrists, |
| (j) psychologists. | | |

Clause 7 Exemption from insurance requirement

(1) In accordance with section 25 (5) of the Act, the following health practitioners are exempt from the requirement for professional indemnity insurance:

- (a) a person whose registration as a health practitioner is subject to the condition that the person does not practise,
- (b) a health practitioner who practises primarily outside New South Wales and who is covered by professional indemnity insurance of any kind while practising in New South Wales,
- (c) a health practitioner whose practice is limited to the rendering of assistance, in the practitioner's capacity as a health practitioner, on a voluntary basis in emergency situations,
- (d) a health practitioner who practises in the course of being:
 - (i) employed by another person, or
 - (ii) engaged by another person under some contractual arrangement,
- (e) a health practitioner whose practice does not include the provision of health care or of an opinion given in the practitioner's capacity as a health practitioner in respect of the physical or mental health of any person,
- (f) a health practitioner who, while practising, is covered by an indemnity arrangement established or entered into by the State or the Commonwealth to cover civil liability,
- (g) a health practitioner who, while practising in accordance with a function conferred or imposed by or under any State or Commonwealth Act or regulation, does not, under that Act or regulation, incur any personal liability.

(2) An exemption under subclause (1) (b)–(g) applies to a health practitioner only to the extent to which the health practitioner practises in the circumstances described in the exemption concerned.

(3) Without limiting subclause (2), the exemption under subclause (1) (d) applies only in relation to a health practitioner:

(a) to the extent that the health practitioner is practising as an employee of, or under contract to, the other person, and

(b) to the extent that the health practitioner is indemnified, under an insurance policy issued to the other person, for civil liability arising out of the provision of, or failure to provide, health care by the health practitioner, and

(c) if the other person is not the health practitioner's practice company.

Clause 8 Exemption for limited period after cessation of insurer's business

(1) If a health practitioner ceases to be covered by professional indemnity insurance as a consequence of the cessation of business of the insurer who provided the insurance, the health practitioner is, in accordance with section 25 (5) of the Act, exempt from the requirement for professional indemnity insurance but only for a period of no more than 3 months (or such longer period as the Minister may specify by order published in the Gazette) commencing on the date on which the health practitioner ceased to be so covered.

(2) The reference in subclause (1) to the cessation of business of an insurer includes a reference to the appointment of a liquidator, administrator or controller (within the meaning of the [Corporations Act 2001](#) of the Commonwealth) in respect of the insurer's business.

S. 25 Professional indemnity insurance for certain other health practitioners

(1) This section applies to or in respect of a person who is a health practitioner only if the regulations have declared that this section applies to the class of health practitioner of which the person is a member.

(2) A person is not entitled to practise as a health practitioner unless the person is covered by professional indemnity insurance.

(3) Accordingly, the appropriate registration authority:

(a) must not register a person as a health practitioner unless the authority is satisfied that the person will, while practising as a health practitioner, be covered by professional indemnity insurance, and

(b) may cancel or suspend the registration of a person as a health practitioner if the authority is satisfied that the person is not covered by professional indemnity insurance while the person is practising as a health practitioner.

(4) Practising as a health practitioner without being covered by professional indemnity insurance is, for the purposes of the relevant health registration Act, unsatisfactory professional conduct.

(5) This section does not apply in respect of a health practitioner who is exempt under the regulations from the requirement for professional indemnity insurance.

(6) This section has effect despite the relevant health registration Act under which a health practitioner is registered.

(7) In this section:

appropriate registration authority, in relation to a health practitioner, means the person or body who has the function, under the relevant health registration Act, of determining any matter relating to the registration of the health practitioner under the health registration Act.

relevant health registration Act, in relation to a health practitioner, means the Act under which the health practitioner is registered or is otherwise entitled to practise.