



Podiatrists Board
of New Zealand

Competence Review Guidelines for Podiatrists

Reference Part 3 Sections 34-44 of the Health
Practitioners Competence Assurance Act 2003

PLEASE READ THE GUIDELINES CAREFULLY BEFORE COMMENCING

April 2009

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The Podiatrists Board acknowledges the assistance of the Psychologists Board in the preparation of this document.

Competence Review Guidelines for Podiatrists

To collegially assist Registered Podiatrists undergoing a Competence Review and Competence Programmes arising from a Review

Introduction to Competence Reviews and Programmes

The New Zealand Podiatrists Board ("Board") is legally required to oversee a system for providing for Competence Reviews ("Reviews") and Competence Programmes ("Programmes") for Registered Podiatrists ("Podiatrist"). You are invited to read the background information about practitioner competence under the Health Practitioners Competence Assurance Act 2003 ("Act") available on the Board's website (<http://www.podiatristsboard.org.nz>)

Please note that **Reviews and Programmes are not disciplinary** in nature. A Review is to assess your competence, and it is therefore **evaluative and educational** in nature. A Programme is **remedial** in nature. The Board believes that both Reviews and Programmes should be as consultative and supportive as possible.

Part 1. About Competence Reviews

WHEN COMPETENCE ISSUES ARISE FROM PRACTICE CONCERNS

The following questions and answers explain how competence matters arise and the Board's processes for dealing with them.

1) Who might ask for a Podiatrist to be reviewed?

- Professional colleagues, other health practitioners; including other Podiatrists providing general oversight, e.g. supervision;

- Employers, (including PHOs, DHBs, ACC), especially if you resign or are dismissed for reasons relating to competence;
- The Board itself, whether or not there is reason to believe that the Podiatrist's competence may be deficient. This option is stipulated in the Act [ref: section 36(4)],
- The Health and Disability Commissioner and Professional Conduct Committees.,
- Members of the public.

2) How has someone requested a review of my competence?

By notice to the Board. This notice must set out the reasons why it is believed that you may pose a risk of harm to the public, or because of a question of ethics and/or the nature of your practice may cause the standard of your competence to be questioned.

3) How does the Board initially screen a request for a Review?

The Board recognises that a Review is likely to be a significant and anxiety-provoking intrusion into the professional life of the Podiatrist. A Review is not carried out if the notification is considered frivolous, vexatious, or if inadequate information is received. The decision to proceed with a review is made after careful consideration of all of the information made available to the Board.

Generally, the following factors **increase** the probability of underlying incompetence, and therefore the Board deciding to proceed with a Review:

- A pattern of poor standards of care or competence - several instances, or one instance over a sustained period;
- The magnitude of the mistakes, including the size of the suspected deficit, and the possible degree of serious departure from normal accepted standards of practice.

It is also recognised that incompetent practice may be the result of gradually evolving illness or disability.

The following factors **decrease** the likelihood of the Board deciding to proceed with a Review:

- Whether the matter would be more appropriately dealt with by other agents, such as the Privacy Commissioner or the Courts, and does not directly relate to professional or clinical competence;
- Situations more appropriately dealt with by Professional Conduct Committees, Conciliation, or the Health and Disability Commissioner.

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THE COMPETENCE REVIEW PROCESS

4) Who will conduct the Review?

A Competence Review Committee ("Committee") appointed by the Board will conduct your Review. The membership of the Committee is listed in the Competence Review Notice ("Notice") you received from the Board. This Committee may co-opt others for specific expertise or advice, e.g. where cultural issues are the source of the concern, the Committee should include cultural expertise.

Committee members are fellow Podiatrists who are considered professionally competent, have good interpersonal skills, and have knowledge of performance, ethics and accepted standards of practice to the level expected by the Board. You may object to the Committee members if you perceive a serious conflict of interest, or you believe that the Committee seriously lacks expertise to review the competence matters outlined in the terms of reference in the Notice. You will need to raise any such concerns within five (5) working days of receiving the Notice. This should be done in writing and include a detailed explanation of the reasons why you are requesting any change. Objections received will be carefully considered, but the Board is not obliged to grant them.

5) How will the Review proceed from this point on, and what do I need to do now?

The Board has issued you with a Notice, detailing the following:

- The substance of the concerns, and the grounds on which the Board has decided to carry out the Review.
- Information relevant to your competence that is in the possession of the Board.
- The terms of reference for the Review. This gives the detail or scope of what the Review will focus on. *Note: The precise activities involved in assessing your competence will be developed by the Committee. Commonly accepted assessment tools will be used, along with activities that may include reviewing written work, files and interviews.*
- Committee membership.

You are entitled (and encouraged) to make initial written submissions to the Board and be heard on the matter, either personally or by your representative. Your submissions should be received by the Board by the date specified in the Notice and should cover any issues contained in the Notice.

6) What happens after I have given the Board my submissions?

Once the deadline for initial submissions has passed and the Board has confirmed membership of the Committee, any submissions you have made will be forwarded by the Board to the Committee. The Committee will meet and

commence determining the activities that will constitute the Review. Once the specific Review activities are finalised by the Committee, a Committee representative will notify you of these, and arrangements to find a suitable time and place will be made with you and any other necessary parties. Initially, many of these practical arrangements regarding the site visit may be negotiated over the phone. These negotiations will be followed by written letters confirming the arrangements made.

The practical component of the Review may take from half a day (3 hours) to a full day (6 hours) depending on the breadth of the problem. Each Committee member will be involved. The practical component provides you with an opportunity to be heard on the matter, either personally or by your representative.

You are entitled to the presence of a support person (or persons) of your choice during the Review.

If any other competence issues are identified during the course of the Review, which would normally be serious enough to warrant concern, the Act requires the Committee to notify the Board

What decisions can the Committee make?

Within one month of conducting the Review, the Committee must write a report to the Board with a recommendation that you either:

- a) Do meet the required standard of competence for a Registered Podiatrist; or
- b) Do not meet the required standard of competence for a Registered Podiatrist.

In the case of b) above, the Committee may make suggestions to the Board regarding Orders (see below).

7) What decisions can the Committee make?

The Board will consider the Committee's report. If the Committee has determined that you **do not** meet the required competence standards, then the Board must make one or more of the following **Orders**:

- That you undertake a competence programme;
- That one or more conditions be included in your scope of practice;
- That you sit a specified examination or assessment;
- That you are counselled or assisted by one or more nominated persons.
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8) What are the confidentiality requirements of the Review Committee?

Committee members sign a confidentiality agreement in which they undertake not to reveal or release any personal or health information obtained about you or your clients, except as legally required during the course of the review. In addition, where specific cases are included in the report or discussed with the Board, no client identifying information is included. If client consultations are observed, the client must be requested to sign a consent form prior to the consultation.

9) Who knows that a Competence Review is taking place?

If you are employed, it may be desirable that your employer be informed. Aspects of the Review such as reviewing patient/client records and interviewing colleagues often requires others in the workplace to be aware of the review. However, privacy concerns mean that, excepting those who must be notified of a Review (see item 11 below), the Board does not release information about a Podiatrist being reviewed without permission of that Podiatrist. Circumstances of *risk* or *harm* may override these matters of privacy or confidentiality, where necessary.

10) Who knows the outcome of the Competence Review?

If the Review determines that you do not meet the required standard or competence, and the Board has issued you with orders concerning competence within five (5) working days, the Act states that a copy of the orders must be given to the following:

- you;
- any person who works in partnership with you;
- your employers.

11) What if I decline to take part in the Review?

If the Board is unable to conduct or complete a Review because you fail to respond adequately to the Notice, the Act states that the Board has reason to believe that you fail to meet the required standard of competence.

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12) What information does the person making the referral get

The agent making the referral is given information about the Review process, and advised that this is not a disciplinary process, and that the Podiatrist's competence may be reviewed. The agent is informed that if problems are identified, the Podiatrist to whom the referral relates may be required to undergo a Competence Programme.

13) What kind of conditions can be put in place pending a Review?

The Board may order interim suspension of your practising certificate or alter your scope(s) or practice while you undergo a Review. This can be ordered where there are **reasonable grounds to believe that the Podiatrist poses a risk of serious harm to the public** through practising below the required standard of competence.

14) Should I have formal representation during the Review?

As part of your right to be heard on the matters involved in the Review, you can do this yourself or choose to have a representative act on your behalf.

NOTE: Reviews are not disciplinary in nature; they are intended to be evaluative and educational, with the goal of working with the Podiatrist to identify possible problems to be remedied. The Board believes that Reviews should be as supportive of the Podiatrist as possible. It is expected that direct dialogue with the Podiatrist concerned is likely to facilitate such support and collaboration.

15) What if I want a support person with me during the Review?

You are entitled to the presence of a support person (or persons) during the Review. A confidential declaration will need to be signed by such people, and this will be organised by the Committee at the time. The Board can provide Guidelines for Support People as required.

16) Should my supervisor be part of the Review?

It is possible that the Committee may find it helpful to talk with, or meet, any professional supervisor you have. If so, the Committee will include this in the list of activities that will form the practical component of the Review. It is also possible that you may want your supervisor to contribute to any submissions you make.

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17) Does the Board obtain feedback about the Review process?

Once the Review has been completed, the Board will send you an evaluation form inviting feedback about the Review process. Completion of this evaluation form is a voluntary task. The information is sought as a means of refining processes and protocols in the future. The Committee completes a similar form. Your name will be removed from the form and any information will be pooled with feedback received from others who have taken part in Reviews. It is envisaged that themes and issues emerging from this pooled information will be shared with the profession through the Board's usual communication outlets, e.g. professional association conferences, Newsletter, etc.

Part 2. About Competence Programmes

WHEN COMPETENCE PROGRAMMES ARISE FROM A REVIEW

1) How is a Competence Programme developed following a Review?

A Programme will be:

- designed to fill gaps in the skills of the Podiatrist as described in the Review report;
- developed to include specific objectives and educational activities and an agreed process of reporting or reassessment at the end of the process;
- developed with the Podiatrist concerned to ensure the Programme is feasible.

When necessary, this may include the appointment of an educational or clinical mentor to guide the Podiatrist through the educational, clinical or practical activities required.

The Board drafts the requirements for the Programme based on the Review report, input from the Chair of the Committee and discussions with any other appropriate educational providers, and any Programme mentor.

2) What is included in a Competence Programme?

A Programme may include the following details:

- specific measurable objectives for the Programme;
- details of educational activities you should participate in to meet these objectives, e.g. specified courses, audits, individual study, practice enhancement activities;
- the specific skills required of and tasks to be performed by any Programme Mentor when it is considered that the Programme is sufficiently extensive or complex to warrant such an appointment;
- the method for assessing whether the objectives have been met. Assessment may vary from simple reporting (e.g. that a specified educational activity has been completed along with a description of the learning that occurred and how that has been implemented in practice), to monthly Supervisor's reports followed by a repeat Review;
- The date by which the Programme should be completed.

The Board works collaboratively to discuss the proposed Programme to ensure that it is feasible and acceptable. The Board then approves the Programme, and an Order containing the details of the Programme is issued to the Podiatrist (and to the Supervisor where one is appointed) within twenty (20) working days of the Board's approval. If a further Review is required at the completion of the Programme, whenever possible, one or more of the original Committee members carries out the Review. The Supervisor is not normally part of the Review team. The Board covers the cost of any additional Review.

3) Who might become a Competence Programme Supervisor?

The following guiding criteria required of the person appointed as an educational or clinical Supervisor are - that the supervisor appointed must:

- be a peer working in the same broad scope or area as the Podiatrist concerned;
- possess good facilitation and interpersonal skills;
- have had significant experience as a Podiatrist educator or supervisor;
- be competent and have recognised experience in the area of concern;
- be acceptable to the Podiatrist concerned.

The Board appoints any Supervisor after discussions with you, other relevant education providers or professional organisations (e.g. Podiatry New Zealand and the New Zealand College of Podiatric Surgeons), and cultural advisors where necessary. The frequency and method of meetings i.e. face to face, via telephone, between the Podiatrist and the Supervisor.

4) Who pays for the costs of completing a Competence Programme?

Payment of costs of the Programme is the responsibility of the Podiatrist undergoing the Programme.