



# Podiatrists Board of New Zealand

Te Poari Tiaki Waewae O Aotearoa

## Naming Policy

### Refers to the following key legislation:

- Health Practitioners Competence Assurance Act 2003
- Privacy Act 2020
- Official Information Act 1982
- Defamation Act 1992
- The New Zealand Bill of Rights Act 1990

### Also refers to the following related information on the Podiatrists Board website:

- Podiatry Competency Standards
- Principles and Standards for the Practice of Podiatry in New Zealand (PSPPNZ)
- Ethical Principles and Standards of Conduct
- Decisions by the Health Practitioners Disciplinary Tribunal

### Policy Statement

The Podiatrists Board (**the Board**) exists to protect public safety. As the podiatry regulator it sets and monitors professional standards in podiatry. The Board makes sure podiatrists meet and maintain professional standards of education, conduct and performance; so that podiatrists deliver high quality healthcare throughout their careers. The Board will hold them to account if they fall short.

This naming policy will strengthen public trust in podiatry as a profession by allowing patients to make an informed choice about the podiatrist they engage with. It allows the Podiatrists Board to publish information about a podiatrist where that podiatrist has fallen short of professional expectations or is otherwise the subject of an order or direction.

The naming policy was developed in accordance with section 157B of the Health Practitioners Competence Assurance Act 2003 (HPCAA), which states that the purpose of the naming policy is to:

- enhance public confidence in podiatrists by providing transparency about the Board’s disciplinary procedures and decision-making processes; and
- ensure that podiatrists whose conduct has not met expected standards may be named where it is in the public interest to do so; and
- improve the safety and quality of health care.

**1 Health practitioners for whom the naming policy applies.**

- a. This naming policy applies to:
  - I. Any podiatrist registered with the Board; or
  - II. Any podiatrist who has previously held registration with the Board.
- b. In New Zealand, podiatrists are registered health practitioners who practise within the Podiatrist Scope of Practice, as prescribed by the Board under section 11 of the HPCAA.

**2 Circumstances in which a podiatrist may be named.**

- a. The Board may name any podiatrist who is the subject of an order or direction made by the Board, the Health Practitioners Disciplinary Tribunal (the Tribunal), or a New Zealand court where that order is made under the HPCAA.
- b. Naming would only occur following the completion of any Board, Tribunal, or court process. Naming would not occur while any investigation or deliberations were ongoing.
- c. Notwithstanding section 2b above, the Board may decide to name a podiatrist who is the subject of an interim suspension order under sections 39(1) or 48 of the HPCA where the Board has reasonable grounds to believe it is in the public interest to name that podiatrist in order to minimise the risk of serious harm to the public.
- d. The Board will not routinely publish the names and details where podiatrists were investigated but are not the subject of any orders or direction in section 2b above, except for:

- I. Podiatrists who have been exonerated during any investigation, who may ask the Board to publish their name and the details of that exoneration in order to clear their name.
- II. Podiatrists who are the subject of confusion where their name is the same as or very similar to that of another podiatrist or health professional named in an order, who may ask the Board to publish their name with clarification to avoid confusion.

**3 General principles that will guide the Board's naming decisions.**

- a. In making a decision about the publication of information relating to a podiatrist, the Board will maintain a focus on protecting public safety.
- b. When deciding what information is published, the Board must weigh the public interest in making information against the impact that naming may have on the podiatrist.

**4 Criteria that the Board must apply when making a naming decision.**

- a. A number of specific factors are relevant considerations when assessing the strength of the privacy interest in a particular case:
  - I. Extent to which information is already in the public domain - the privacy interest may be diminished by prior knowledge or public availability of the information.
  - II. Whether the allegations were substantiated - the privacy interest is higher where allegation against a podiatrist is unsubstantiated i.e. the allegation made against the practitioner has not been formally upheld. Conversely, a podiatrist's legitimate expectation of privacy will be diminished where allegations made about them have been substantiated.
  - III. Whether the investigation is ongoing - disclosing the details of an allegation during an ongoing investigation may unfairly suggest that there is substance.
  - IV. Likelihood of harm arising from disclosure - there may be factors that heighten the risk of personal or professional harm arising from disclosure, for example the physical or mental health of the podiatrist, or the size of the community in which they practise.
- b. The following factors may heighten the strength of the public interest in disclosure.

- I. Public safety - ensuring the safety and quality of health care and the competence of podiatrists. Non-disclosure in a particular case may run the risk of harm to future patients. Disclosure may elicit other complaints or concerns about a practitioner's competence.
- II. Public choice - the right of the public and potential patients to know the disciplinary history of a particular podiatrist so as to be able to make an informed choice whether to engage their services in the future.
- III. Accountability - podiatrists are accustomed to being held to account for the standard of care or service they provide. They should expect that some information may need to be disclosed if serious accountability or health and safety concerns are raised.
- IV. Nature of the concerns - does the concern raise serious safety or competence concerns, does non-disclosure raise a risk of harm to future patients. Concerns of a serious nature will raise stronger public interest considerations in favour of disclosure.
- V. Action taken in respect of the outcome of an investigation - the public interest in disclosure may be higher where a concern has been investigated and found to be substantiated, and it is in the public interest to know the remedial actions or consequences imposed on the podiatrist.
- VI. Extent to which information is already in public domain - if information about the concern is already in the public domain, this may increase the public interest in disclosure of a summary about the outcome of any investigation. The purpose of such disclosure would be to demonstrate that appropriate action has been taken to investigate the concern and institute any protective measures or remedial action.

**5 Information the authority may disclose when naming a podiatrist.**

- a. Where the Board has elected to, or been directed publish information about a podiatrist, it will release summary information with appropriate context.
  - I. Publications instigated by the Board may include the name of the podiatrist, a short context of the concern and citation of the relevant section of the HPCAA.
  - II. Publications directed by Tribunal, or a court will come with content requirements as designated in that direction.

- b. Where the order or direction relates to the health of a podiatrist, additional consideration is needed with regards to the impact any disclosure may have on the podiatrist.

**6 Means by which a podiatrist may be named.**

- a. Publication will be made via posting on the relevant section of the Podiatrists Board website; and may also be by inclusion in the Board's electronic newsletter.
  - i. In addition, the Board may also annotate the podiatrist's entry on the Register to include a reference to the order or direction.
- b. Information published on the Board's website will be reviewed periodically.
- c. The Board may elect to share the information with other health regulators in New Zealand, or equivalent regulatory bodies overseas.

**7 Procedures that Board must follow when making a naming decision.**

- a. When the Board has elected to publish information about a podiatrist, having considered the factors in section four (4) of this policy, it will be required to make the podiatrist aware of this decision and the proposed content five (5) business days in advance of the publication.
  - i. Sending the information to the last known email address will be sufficient for this purpose.
- b. The advance notice timing in section 7a above provides the podiatrist an opportunity to consider the content and make their employer or any practice partners aware of the publication.
- c. Where the publication relates to a specific event or concern, irrespective of if that clearly identifies a patient, the Board must also provide the intended publication content to that patient in advance of publication.

**Approved: 2020. Reviewed 2023.**