



Occupational Therapy Board of New Zealand

TE POARI WHAKAORA NGANGAHAU O AOTEAROA

FOSTERING FAITH AND CONFIDENCE IN THE PROFESSION

FITNESS POLICY

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Purpose

To enable the efficient and consistent processing of applications for registration, and recertification with the Occupational Therapy Board of New Zealand (the Board), in accordance with sections 16 and 27 of the Health Practitioners Competence Assurance Act 2003 (HPCAA).

Fitness for Registration

Fitness for registration legislation

In accordance with section 15 of the HPCAA, the Board may register an applicant for registration within the 'General Scope of Practice: Occupational Therapist' if the applicant is fit for registration in accordance with section 16.

Section 16 of the HPCAA states as follows:

"No applicant for registration may be registered as a health practitioner of a health profession if—

- a) he or she does not satisfy the responsible authority that he or she is able to communicate effectively for the purposes of practising within the scope of practice in respect of which the applicant seeks to be, or agrees to be, registered; or*
- b) he or she does not satisfy the responsible authority that his or her ability to communicate in and comprehend English is sufficient to protect the health and safety of the public; or*
- c) he or she has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer, and he or she does not satisfy the responsible authority that, having regard to all the circumstances, including the time that has elapsed since the conviction, the offence does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or*
- d) the responsible authority is satisfied that the applicant is unable to perform the functions required for the practice of that profession because of some mental or physical condition; or*
- e) he or she is the subject of professional disciplinary proceedings in New Zealand or in another country, and the responsible authority believes on reasonable grounds that those proceedings reflect adversely on his or her fitness to practise as a health practitioner of that profession; or*
- f) he or she is under investigation, in New Zealand or in another country, in respect of any matter that may be the subject of professional disciplinary proceedings, and the responsible authority believes on reasonable grounds that that investigation reflects adversely on his or her fitness to practise as a health practitioner of that profession; or*
- g) he or she—*
 - (i) is subject to an order of a professional disciplinary tribunal (whether in New Zealand or in another country) or to an order of an*

- educational institution accredited under [section 12\(2\)\(a\)](#) or to an order of an authority or of a similar body in another country; and*
- (ii) does not satisfy the responsible authority that that order does not reflect adversely on his or her fitness to practise as a health practitioner of that profession; or*
- h) the responsible authority has reason to believe that the applicant may endanger the health or safety of members of the public.*

Delegations

To the Registrar

In accordance with clause 17, of Schedule 3, the Board has delegated to the Registrar the following relevant functions, duties and powers under the HPCAA by way of delegation document approved on December 2013:

- 1. Receive and assess applications for registration (ss15-20);*
- 2. Receive and assess applications for annual practising certificates (ss26-27);*
- 3. Issue annual practising certificates (s 27).*

To the Fitness Committee

In accordance with clause 17, of Schedule 3, the Board has delegated to the Fitness Committee functions, duties and powers relating to Fitness for Registration and Fitness to Practise under the HPCAA in accordance with the Terms of Reference approved February 2012.

Policy for Fitness for Registration

1. Effective communication/English Proficiency

The Registrar assesses effective communication and English language proficiency in accordance with the [English Language Policy for Registration](#).

This policy lists the Board's requirements for the purpose of satisfying section 16(a) & (b) that an applicant is able to communicate effectively for the purposes of practising within the scope of practice in respect of which the applicant seeks to be, or agrees to be, registered; and that his or her ability to communicate in and comprehend English is sufficient to protect the health and safety of the public.

[Please view chart below.](#)

2. Convictions

The Board's [Criminal Convictions/Police Report Policy](#) outlines the requirements for applicants for registration in accordance with section 16(c) who have been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of three months or longer. In such cases, the applicant must satisfy the Board that, having regard to all the circumstances, including the time that has elapsed since the conviction, the offence does not reflect adversely on his or her fitness to practise through the provision of information as listed in the above mentioned policy.

In cases of first offence, drink driving convictions, the Registrar considers the matter. In cases involving more than one drink driving conviction, and all other

convictions the matter is referred to the Board's Fitness Committee or to the Board directly for assessment.

[Please view chart below.](#)

Please note convictions of registered practitioners is a separate matter dealt with in accordance with section 67 of the HPCAA, and must be referred to a Professional Conduct Committee for investigation under section 68.

3. Health

In order to determine whether an applicant is able to perform the functions required for the practice of occupational therapy because of some mental or physical condition as per section 16(d), the Board's information requirements are set out below:

The Registrar may request the following information from practitioners who declare health conditions:

1. A personal explanation from the practitioner as follows:
 - a. Your diagnosis and details of your health condition;
 - b. Your treatment plan, including the strategies you use to manage each condition; *and*
 - c. The extent to which your health condition impacts on your ability to practise as an occupational therapist.
2. A letter from their treating medical practitioner/specialist if applicable covering points (a – c) above;
3. An explanation from the practitioner's employer as to how the health condition is being managed in the workplace;
4. A copy of the practitioner's job description;
5. A copy of any proposed return to work or health management plan;
6. Any other information the Registrar deems relevant.

Upon review of the information provided, the Registrar will assess the risk to the public if the practitioner is permitted to practise. Such review will consider, among other things, the well being of practitioner, the checks and balances that have been put in place to enable the practitioner to practise safely without placing public at risk; and any mechanisms in place to manage the health condition.

In assessing the practitioner's fitness to practise the Registrar may take advice from the Deputy Registrar, Professional Advisor and Senior Solicitor.

Where it is considered that the practitioner is able to perform the functions required for practice of the profession, the practitioner's application is processed and he/she is granted registration.

In the event that the Registrar determines that section 16(d) applies, the Registrar will promptly refer the application to the Board's Fitness Committee for consideration or may direct the matter straight to the Board, as required.

[Please view chart below.](#)

4. Professional Disciplinary Proceedings/ Investigation/ Orders

Section 19 of the HPCAA enables the Board to receive any information, or question any applicant, or any other person in respect of an application being considered by the Board.

The Board or Registrar will seek information at its discretion, as to whether an applicant is the subject of professional disciplinary proceedings or under investigation in New Zealand or in another country, or whether the applicant is subject to an order of a professional disciplinary tribunal (whether in New Zealand or in another country) or an order of an educational institution accredited under [section 12\(2\)\(a\)](#) or an order of an authority or of a similar body in another country.

In such cases, the Board or Registrar will consider whether it believes on reasonable grounds that those proceedings/investigations/Orders reflect adversely on the applicant's fitness to practise.

5. Reason to believe the applicant may endanger health and safety

In accordance with section 19 of the HPCAA, the Board or Registrar will seek at its discretion, information pertaining to any matter which it considers may give rise to a reason to believe that an applicant may endanger the health or safety of members of the public.

Fitness to Practise

Fitness to Practise legislation

[Sections 45 to 51](#) of the HPCAA address fitness to practise, and health concerns about registered occupational therapists.

Where a Registrar receives a notification that raises concerns about an occupational therapist's fitness to practise under [section 45](#) the Registrar must refer the notice to the Board as soon as reasonably practicable ([section 47](#)).

In terms of recertification, section 27(1)(e) of the HPCAA specifies the following restrictions on issue of annual practising certificates to registered occupational therapists, where the Registrar believes on reasonable grounds that:

"the applicant is unable to perform the functions required for the applicant's profession because of some mental or physical condition"

Policy for Fitness to Practise

In order to determine whether a registered occupational therapist is able to perform the functions required for the practice of occupational therapy because of some mental or physical condition, the Registrar requests the same information set out [above at point 3](#), from practitioners with health conditions.

In addition, the Registrar requests an explanation from the Third Party seeking the basis for their declaration where applicable.

In the event that the Board has previously been made aware of the health condition, and this has been considered by the Board's Fitness Committee, the Board or Registrar, the Registrar will not request any further information unless he believes on reasonable grounds that section 27(1)(e) applies. In this case, the Registrar will promptly refer the application to the Board's Fitness Committee for consideration or may direct the matter straight to the Board, as required.

Dealing with a practitioner's fitness to practise under section 16 HPCAA 2003

