

South Australia

## **Dental Practice (General) Regulations 2003**

under the *Dental Practice Act 2001*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Dental Practice (General) Regulations 2003*.

### 2—Commencement

These regulations will come into operation on the day on which the *Dental Practice Act 2001* comes into operation.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Dental Practice Act 2001*;

*child* means a person under the age of 18 years;

*employ* includes engage under a contract for services;

*prescribed body* means—

- (a) Nganampa Health Council Incorporated; or
- (b) Nunkuwarrin Yunti of South Australia Incorporated;

*public sector* has the same meaning as in the *Public Sector Management Act 1995*.

### 4—Prescribed communicable infections (section 3(1) of Act)

For the purposes of the definition of *prescribed communicable infection* in section 3(1) of the Act, the following infections are prescribed:

- (a) Hepatitis B;
- (b) Hepatitis C.

## Part 2—Registration

### Division 1—Authority conferred by registration

#### 5—Meaning of supervision

- (1) For the purposes of this Division, dental treatment is provided to a patient by a person under the supervision of a dental practitioner if and only if—
  - (a) the practitioner has responsibility for the care of the patient; and
  - (b) the treatment is of a kind authorised by the practitioner's registration; and
  - (c) the practitioner has personally attended the patient; and
  - (d) the practitioner has prepared or approved a written individual treatment plan for the patient within the previous 6 months; and
  - (e) the treatment is provided in accordance with the plan; and

- (f) subject to subregulation (2), a dental practitioner whose registration authorises the provision of the treatment of the kind concerned is present on the premises where the treatment is being provided and is available—
  - (i) to advise or assist the person in the provision of the treatment; or
  - (ii) to intervene in the provision of the treatment,as may be necessary in the circumstances of the case.
- (2) If a dental hygienist provides dental treatment of a kind authorised by his or her registration—
  - (a) in the course of an epidemiological research project being undertaken by the hygienist; or
  - (b) on the premises of the Julia Farr Centre or at a supported residential facility as defined in the *Supported Residential Facilities Act 1992*,

subregulation (1)(f) does not apply, but instead a registered dentist or registered specialist must be contactable by telephone, facsimile, electronic mail or other electronic means to provide advice or instruction to the hygienist, if necessary, while the hygienist is providing the treatment.

#### **6—Prescribed branches of dentistry (section 31(b) of Act)**

For the purposes of section 31(b) of the Act, the following branches of dentistry are prescribed:

- (a) dento maxillofacial radiology;
- (b) endodontics;
- (c) oral and maxillofacial surgery;
- (d) oral medicine;
- (e) oral pathology;
- (f) orthodontics;
- (g) paediatric dentistry;
- (h) periodontics;
- (i) prosthodontics;
- (j) public health dentistry.

#### **7—Authority conferred by registration as dental hygienist (section 31(e) of Act)**

- (1) For the purposes of section 31(e) of the Act, registration on the register of dental hygienists authorises—
  - (a) a dental hygienist employed in the public sector or by a prescribed body to provide dental treatment of a kind prescribed by subregulation (2) in accordance with the conditions of the hygienist's employment;
  - (b) a dental hygienist employed in the private sector (other than by a prescribed body) to provide dental treatment of a kind prescribed by subregulation (2) under the supervision of a registered dentist or registered specialist.

- (2) For the purposes of subregulation (1), the following kinds of dental treatment are prescribed:
- (a) oral examination and the assessment and recording of oral conditions;
  - (b) the taking of impressions of teeth (other than for the purposes of prosthodontic or prosthetic dental treatment);
  - (c) the application of preventive and therapeutic solutions to teeth;
  - (d) preventive dental procedures, including the application of fissure sealants;
  - (e) the non-surgical management of gingival and periodontal conditions, including root debridement;
  - (f) orthodontic procedures that do not initiate tooth movement (including, but not limited to, orthodontic band sizing or selection, the bonding of fixed orthodontic retainers, the disengagement of arch-wires and the removal of orthodontic attachments and adhesives);
  - (g) the placement and removal of metallic and non-metallic separators;
  - (h) splinting to stabilise mobile teeth;
  - (i) the polishing and recontouring of restorations;
  - (j) the application of professionally available bleaching agents;
  - (k) the removal of sutures;
  - (l) the application and removal of periodontal packs;
  - (m) diagnostic dental radiography, but only if—
    - (i) the dental hygienist is licensed under section 31 of the *Radiation Protection and Control Act 1982* to operate ionising radiation apparatus used for such radiography; and
    - (ii) the exposure of a patient to ionising radiation for the purpose of such radiography has been authorised under Division 1 of Part 3 of the *Radiation Protection and Control (Ionising Radiation) Regulations 2000*;
  - (n) dental treatment consisting of—
    - (i) the administration of local anaesthetic solutions for the purposes of dental procedures; and
    - (ii) the placement of temporary restorations not involving removal of a tooth structure,but only if the dental hygienist has been authorised in writing by the Board to provide dental treatment of that kind.

### **8—Authority conferred by registration as dental therapist (section 31(f) of Act)**

- (1) For the purposes of section 31(f) of the Act, registration on the register of dental therapists authorises—
- (a) a dental therapist employed in the public sector or by a prescribed body to provide to a child dental treatment of a kind prescribed by subregulation (2) in accordance with the conditions of the therapist's employment;

- (b) a dental therapist employed in the private sector (other than by a prescribed body) to provide to a child dental treatment of a kind prescribed by subregulation (2) under the supervision of a registered dentist or registered specialist.
- (2) For the purposes of subregulation (1), the following kinds of dental treatment are prescribed:
- (a) oral examination;
  - (b) the diagnosis of oral conditions and planning of dental treatment;
  - (c) the taking of impressions of teeth (other than for the purposes of prosthodontic or prosthetic dental treatment);
  - (d) the application of preventive and therapeutic solutions to teeth;
  - (e) preventive dental procedures, including the application of fissure sealants;
  - (f) the administration of local anaesthetic solutions for the purposes of dental procedures;
  - (g) dental prophylaxis, including the removal of dental calculus;
  - (h) splinting to stabilise mobile teeth;
  - (i) restoration of coronal tooth structure, including pulp capping and pulpotomy;
  - (j) extraction of deciduous teeth;
  - (k) the referral to—
    - (i) in the case of a dental therapist who provides dental treatment under the supervision of a registered dentist or registered specialist—that dentist or specialist; or
    - (ii) in any other case—a registered dentist or registered specialist,of a patient whose present situation requires dental treatment of a kind not authorised by the dental therapist's registration;
  - (l) diagnostic dental radiography, but only if—
    - (i) the dental therapist is licensed under section 31 of the *Radiation Protection and Control Act 1982* to operate ionising radiation apparatus used for such radiography; and
    - (ii) the exposure of a patient to ionising radiation for the purpose of such radiography has been authorised under Division 1 of Part 3 of the *Radiation Protection and Control (Ionising Radiation) Regulations 2000*.

### **9—Authority conferred by registration as dental student (section 31(h) of Act)**

For the purposes of section 31(h) of the Act, registration on the register of dental students authorises the student to provide, under the supervision of a dental practitioner giving instruction in a course of study that provides qualifications for registration as a dental practitioner under the Act in which the student is enrolled, dental treatment of a kind authorised by the practitioner's registration.

## **10—Review of requirement for supervision**

- (1) Within 12 months after the day on which these regulations come into operation, the Minister must, in consultation with the Board and representatives of the various dental professions—
  - (a) cause a review of the operation of regulation 5 for the purpose of determining whether the level and form of supervision required is appropriate in the various circumstances to which that regulation applies—
    - (i) having regard to the future needs of the community for the services provided by the various dental professions; and
    - (ii) with a view to maximising the public benefit from the effective utilisation of the practice of dentistry by the various dental professions; and
  - (b) cause a report on the outcome of the review to be prepared and submitted to him or her.
- (2) The Minister must, within 6 sitting days after receiving the report, cause a copy of the report to be laid before both Houses of Parliament.

## **Division 2—Special obligations of company practitioners**

### **11—Returns by companies (section 39 of Act)**

For the purposes of section 39 of the Act—

- (a) the form of return set out in Schedule 1 is prescribed; and
- (b) the completed form must be signed on behalf of the company by a director and the secretary of the company.

## **Division 3—Restrictions relating to the provision of dental treatment**

### **12—Use of certain titles or descriptions prohibited (section 44 of Act)**

For the purposes of section 44(1) and (3) of the Act, the words specified in column 1 of the table in Schedule 2 are prescribed in relation to a person who is not registered on the register specified opposite in column 2.

### **13—Exemptions from restriction on provision of dental treatment by unqualified persons (section 45 of Act)**

Pursuant to section 45(2)(b) of the Act, dental treatment may be provided by an unqualified person through the instrumentality of a qualified person if—

- (a) the unqualified person is an agency or instrumentality of the Crown and the treatment is provided by a qualified person employed by that agency or instrumentality; or
- (b) the unqualified person is an educational institution and the treatment is provided by a dental student enrolled at that institution in a course of study that provides qualifications for registration as a dental practitioner under the Act;

- (c) the unqualified person is a prescribed body and the treatment is provided by a registered dental hygienist or registered dental therapist employed by that body.

### **Part 3—Miscellaneous**

#### **14—Obligation to report medical unfitness of dental practitioner or dental student (section 54 of Act)**

For the purposes of section 54(2) of the Act, the information required to be included in a report submitted to the Board by a medical practitioner who has treated, or is treating, a patient who is a dental practitioner or dental student is—

- (a) the diagnosis of the patient's medical condition; and
- (b) the prognosis and likely duration of the patient's medical condition; and
- (c) a description of any treatment being received by the patient for the medical condition.

#### **15—Dental practitioner etc must declare interest in prescribed business (section 75 of Act)**

- (1) For the purposes of section 75(1) of the Act, the information that must be given to the Board by a person who has an interest in a prescribed business is—
  - (a) the full name and residential address of the person who has the interest; and
  - (b) if the person who has the interest is a prescribed relative of a dental practitioner—the relationship of the person to the dental practitioner; and
  - (c) the name, address and nature of the prescribed business in which the person has the interest; and
  - (d) the nature of the interest and of any benefit derived from the interest; and
  - (e) if the interest consists of a shareholding in a prescribed business—the number, nominal value and class of shares held and particulars of any voting rights exercisable by the holder at a meeting of shareholders.
- (2) For the purposes of section 75(2) of the Act, details of the change in the information referred to in subregulation (1) must be given to the Board by the person.

#### **16—Information relating to claim against registered person to be provided (section 79 of Act)**

For the purposes of section 79 of the Act, the information relating to a claim referred to in that section to be provided to the Board is—

- (a) the nature of the treatment or procedure that is alleged to have been carried out negligently; and
- (b) full details of the alleged negligence; and
- (c) the address of the premises at which the negligence is alleged to have occurred; and
- (d) the time at which and the date on which the negligence is alleged to have occurred; and

- (e) full details of the injury suffered or allegedly suffered by the claimant as a result of the alleged negligence.

### **17—Fees and charges**

- (1) The Board may fix—
  - (a) registration fees; and
  - (b) reinstatement fees; and
  - (c) annual practice fees; and
  - (d) fees or charges for the inspection of a register; and
  - (e) fees or charges for a copy of any part of a register; and
  - (f) fees or charges for services provided by the Board in the exercise of its functions under the Act.
- (2) Fees or charges fixed by the Board may be differential, varying according to factors determined by the Board.
- (3) The Board may recover a fee or charge fixed under this regulation by action in a court of competent jurisdiction as a debt due to the Board from the person liable for payment of the fee or charge.
- (4) A person is exempt from the obligation to pay a registration fee or annual practice fee fixed by the Board under this regulation if the person—
  - (a) is registered as a dental practitioner in another State or a Territory of the Commonwealth and the appropriate fees have been paid in respect of the person's registration in that State or Territory; and
  - (b) is employed by any of the following to provide dental treatment:
    - (i) the Australian Government; or
    - (ii) the Royal Flying Doctor Service (S.A. Branch) Inc.; or
    - (iii) a person or body approved by the Board.

### **Schedule 1—Form of annual return by company**

- 1 Return relating to the period of 12 months ending on 30 June  
..... (the return period)
- 2 Name of the company
- 3 Register under the *Dental Practice Act 2001* on which the company is registered
- 4 Address of the registered office of the company
- 5 Address and telephone number of the principal place at which the company provides dental treatment
- 6 Address and telephone number of every other place at which the company provides dental treatment
- 7 Business name of each practice conducted under a business name by the company
- 8 In relation to each person who, on 30 June in the return period, was a director or a member of the company or had a right to participate in the distribution of the profits of the company, the following information:



- (a) the person's full name and residential address;
  - (b) the number of shares in the company held by the person;
  - (c) the number of votes the person was entitled to cast at a meeting of members of the company;
  - (d) in the case of a member of the company—the qualification by virtue of which the person was entitled to be a member of the company.
- 9 In relation to each person who, on 30 June in the return period, was a director or a member of the company or had a right to participate in the distribution of the profits of the company, the following information:
- (a) the person's full name and residential address;
  - (b) the number of shares in the company held by the person;
  - (c) the number of votes the person was entitled to cast at a meeting of members of the company;
  - (d) in the case of a member of the company—the qualification by virtue of which the person was entitled to be a member of the company.
- 10 In relation to each person who was a director of the company during the return period, the following information:
- (a) the person's full name and residential address;
  - (b) whether the director was a registered person or a prescribed relative of another director of the company;
  - (c) if the director was a registered person for part of the return period—the date on which the director became or ceased to be a registered person;
  - (d) if the director was a prescribed relative of another director of the company—details of the relationship and, if the relationship commenced or ceased during the return period, the date of commencement or cessation of the relationship.
- 11 In relation to each person who was a member of the company during the return period, the following information:
- (a) the person's full name and residential address;
  - (b) whether the member was a registered person;
  - (c) if the member was a registered person for part of the return period—the date on which the member became or ceased to be a registered person;
  - (d) if the member was a prescribed relative of a director or employee of the company—details of the relationship between the member and director or employee;
  - (e) if the member was a prescribed relative of a director or employee of the company for part of the return period—the date on which the member became or ceased to be such a prescribed relative.
- 12 In relation to each person who was a beneficial owner of shares in the company during the return period, the following information:
- (a) the person's full name and residential address;

- (b) a description of the shares including the number of shares, their nominal value and the voting rights attached to the shares;
- (c) the full name and residential address of the person in whose name the shares were registered;
- (d) details of the beneficial ownership of the shares, including any documentary evidence of beneficial ownership;
- (e) if the beneficial owner of the shares became or ceased to be the beneficial owner of the shares during the return period—
  - (i) the date on which the beneficial owner of shares became or ceased to be a beneficial owner; and
  - (ii) details of the circumstances in which the beneficial owner became or ceased to be a beneficial owner;
- (f) whether the beneficial owner of the shares was a prescribed relative of a director or employee of the company;
- (g) if the beneficial owner of the shares was a prescribed relative of a director or employee of the company during part of the return period—the date on which the beneficial owner became or ceased to be a prescribed relative;
- (h) if the beneficial owner of the shares was a prescribed relative of a director or employee of the company during the return period—details of the relationship;
- (i) whether the beneficial owner of the shares was a registered person;
- (j) if the beneficial owner of the shares became or ceased to be a registered person during the return period—the date on which the beneficial owner of the shares became or ceased to be a registered person.

## **Schedule 2—Prohibited words**

<b>Prescribed words</b>	<b>Appropriate register</b>
Advanced dental prosthetist	Register of advanced dental prosthetists
Dental hygienist	Register of dental hygienists
Dental practitioner	Register of dentists, register of specialists, register of dental prosthetists, register of advanced dental prosthetists, register of dental hygienists, register of dental therapists or register of dental technicians
Dental prosthetist	Register of dental prosthetists
Dental specialist	Register of specialists
Dental student	Register of dental students
Dental surgeon	Register of dentists
Dental technician	Register of dental technicians
Dental therapist	Register of dental therapists
Dentist	Register of dentists

<b>Prescribed words</b>	<b>Appropriate register</b>
Dento maxillofacial radiologist	Register of specialists in dento maxillofacial radiology
Endodontist	Register of specialists in endodontics
Oral and maxillofacial surgery	Register of specialists in oral and maxillofacial surgery
Oral medicine	Register of specialists in oral medicine
Oral pathologist	Register of specialists in oral pathology
Orthodontist	Register of specialists in orthodontics
Paediatric dentist	Register of specialists in paediatric dentistry
Paedodontist	Register of specialists in paediatric dentistry
Periodontist	Register of specialists in periodontics
Prosthodontist	Register of specialists in prosthodontics
Public health dentist	Register of specialists in public health dentistry
Student dental practitioner	Register of dental students

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 12 June 2003

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