

Health (fitness to practise)

Approved: 7 April 2026

Issued: 18 May 2026

For review: 31 March 2029

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Scope and purpose

1. This policy applies to management of all notifications of health concerns about all oral health practitioners (practitioners) who are registered with Dental Council |Te Kaunihera Tiaki Niho (the Council). Its purpose is to:
 - protect public safety by ensuring that practitioners with health conditions are fit to practise their profession.
 - assist the Council to apply a consistent, fair and supportive approach when working with practitioners with health conditions.
 - support practitioners to remain in practice while managing their health condition (if it is safe for them to do so) and/or to return to practice when they are safe to do so.
2. When working with practitioners with health conditions, the Council will comply with its obligations under the Health Practitioners Competence Assurance Act 2003 ("the Act"), recognising that with treatment and/or limitations on practice, most practitioners will likely be able to remain in work safely.

What is impairment?

3. Having a health condition does not necessarily prevent a practitioner from safely practising their profession. Many health practitioners work safely while managing a health issue. The

Council does not need to know about health conditions that do not have the potential to impair a practitioner's ability to practise safely. For example, common illnesses and injuries that require a short period of time off work do not need to be notified to the Council.

However, if the illness or injury results in longer term issues impacting on the practitioner's ability to perform the tasks required for their profession, the practitioner should consider notifying the Council.

4. Impairment may be due to (for example):
 - a physical or mental condition;
 - alcohol or drug dependence;
 - a temporary stress reaction;
 - an infection with a transmissible disease; and/or
 - declining competence or cognition due to age-related loss of mental or physical abilities.
5. Impairment may be indicated by (for example):
 - inability to make safe judgements;
 - failure to demonstrate normal levels of skill and performance;
 - behaviour that is different than usual, or inappropriate words or actions;
 - risk of infecting patients; and/or
 - acting in ways that could impact adversely on patient safety.

Making a notification to the Council

6. Certain people are required to promptly notify the Council if they have reason to believe a practitioner is unable to perform the functions required to practise their profession because of a mental or physical condition. These people include:
 - A person in charge of an organisation that provides health services;
 - A health practitioner;
 - An employer of health practitioners;
 - A medical officer of health.
7. Practitioners who are diagnosed with a health condition that may impact on their fitness to practise are strongly encouraged to notify the Council of this so that the Council can work alongside the practitioner to identify an appropriate solution.
8. A person in charge of an educational institution in New Zealand that delivers a prescribed qualification must promptly notify the Council if they believe a student who is completing the course would be unable to perform the required functions of the profession. The Council will manage these notifications in accordance with its Registration Policy.
9. While the people noted above have a mandatory reporting obligation, any other person may notify the Council if they believe a practitioner's fitness to practise is impaired by a health condition.
10. Provided they have acted in good faith, no civil or disciplinary proceedings lie against any person who makes a health notification.

The Council's approach

11. When it receives a notification that a practitioner may have a health condition impacting on their practice, the Council will contact the practitioner to discuss the information it has received. It may also ask for further information from the practitioner and/or their treating health practitioner. Once it has received the information it needs, it will consider the matter promptly.
12. If the Council considers that a health condition may impact on the practitioner's ability to practise safely, it will put systems in place to manage any risk to the public. The steps it puts in place will depend on the seriousness and urgency of the situation, including the level of risk to the public, and the practitioner's insight into the risk associated with their health condition.
13. Wherever possible, the Council aims to support the practitioner to remain in practice; however, depending on the practitioner's health condition, they may need to stop practising for a period.
14. Options open to the Council when it receives a notification include:
 - Taking no further action if it is satisfied that the practitioner does not have a health condition, or that the practitioner's health condition does not impact on their fitness or safety to practise;
 - Discussing with the practitioner the possibility of a voluntary undertaking, either pending further assessment, or on a long-term basis if the health condition is long-term or permanent;
 - Ordering that the practitioner undergo specified examination or testing by an assessor; and/or
 - Making interim orders to include conditions in the practitioner's scope of practice or to suspend their practising certificate pending the outcome of a health assessment.

Examination or testing

15. If the Council orders that a practitioner undergo an examination or testing, it will try to consult with the practitioner about who will conduct the assessment, before providing the practitioner with a notice setting out:
 - the condition(s) it believes the practitioner may have¹;
 - the name and address of the assessor appointed by the Council, and
 - the date by which the examination or test must be completed.
16. The Council will cover the cost of the examination or testing, including reasonable transport costs for the practitioner, if requested.
17. After completing the examination or testing, the assessor will provide a report to the Council setting out:

¹ This may be broadly framed, including (for example) 'a mental health condition' or 'a dependency issue.'

- whether the practitioner has the specified condition and, if so, detailing the condition, including any current treatment plan.
- whether the practitioner has any other physical/mental condition.
- whether the health condition means the practitioner:
 - is unable to perform the functions required; or
 - would be able to perform the functions required if particular conditions were included in their scope of practice.
- an indication of what, if any, conditions the assessor would consider necessary to enable the practitioner to practise safely.

18. If they think it is necessary, the assessor may consult with other health practitioners to assist with the report.

19. A copy of the assessor's report will be promptly provided to the practitioner.

Council consideration of assessor's report

20. On receipt of the assessor's report, and any comments from the practitioner, the Council will consider how to proceed. Options include:
- Taking no further action if it is satisfied that the practitioner does not have a health condition, or that the practitioner's health condition does not impact on their fitness or safety to practise;
 - Discussing the possibility of a voluntary undertaking with the practitioner, if appropriate; or
 - Making formal orders.

Voluntary undertakings

21. A voluntary undertaking is a commitment made to Council by a practitioner to do, or refrain from doing, certain things to minimise risk presented by (in this policy) a health condition.
22. The intent of a voluntary undertaking is primarily to protect the public; however, a practitioner's health information is often sensitive and private in nature, and practitioners are understandably concerned about public disclosure of this information.
23. If the Council is satisfied that public safety can be achieved without publication of conditions on the register, then it may offer the practitioner the opportunity to enter into a 'voluntary undertaking.' This is a signed agreement between the Council and the practitioner, setting out the terms under which the practitioner will practise.
24. The Council will not offer a voluntary undertaking to a practitioner if it believes that:
- the practitioner is not capable of making an informed decision about whether to sign the undertaking;
 - the practitioner is unwilling or unable to meet all the requirements of the undertaking; and/or
 - there is a risk of harm to the public if the practitioner fails to comply with the requirements.

25. Given the protective intent of a voluntary undertaking, any failure to adhere to it may result in inquiries and possible disciplinary action against the practitioner.

Formal orders

26. Based on the assessor's report, or if the practitioner fails to submit themselves for examination or testing, the Council may decide that formal orders are required for public protection, and may either:

- Order that conditions be included in the practitioner's scope of practice; or
- Suspend the practitioner's registration.

27. Any formal orders would remain in place until the Council is satisfied that there has been a change in the practitioner's circumstances, warranting a review of the orders in place.

Confidential conditions

28. If ordering conditions on a practitioner's scope of practice, the Council may decide not to publish some or all of the information relating to the practitioner's personal health information. In such cases, the register will record "*conditions exist, please contact the Council*" or similar. This information may be made available (after discussion with the practitioner) where Council determines there is a legitimate (including public protective) reason to provide that information.

Types of risk mitigations

29. Regardless of whether a practitioner's health is managed by conditions on their practising certificate, or through a voluntary undertaking, the types of arrangements the Council might put in place include (but are not limited to):

- limiting the practitioner's practice to certain procedures and/or locations;
- requiring the practitioner to practise under supervision;
- requiring the practitioner to inform work colleagues about the relevant health issues;
- requiring the practitioner to undergo treatment and/or therapy and/or peer support groups such as Alcoholics Anonymous and Narcotics Anonymous;
- requiring the practitioner to remain abstinent from drugs and/or alcohol, and to submit to random or regular blood/urine or other testing to check for the presence of drugs or alcohol;
- requiring the practitioner's general practitioner to provide regular supervision and/or monitoring reports to the Council;
- imposing prescribing restrictions; and/or
- appointing a mentor.

30. The Council will usually require some form of reporting on the practitioner's compliance with the conditions or voluntary undertaking.

31. Such an arrangement can remain in place indefinitely if it:

- protects the public;
- is practicable to implement and maintain; and

- the practitioner's circumstances do not change.

Removing or varying orders

32. The Council may decide to revoke any orders when it is satisfied that a practitioner who has been suspended or practising under conditions is safe to practise again. The Council may also vary any conditions if it believes this is necessary.
33. If the Council is considering whether to make changes to any orders, the practitioner will be given the opportunity to make submissions and be heard on the matter.

Administration

Related Policies

1. Notifications Policy
2. Policy on Risk of Harm and Risk of Serious Harm
3. Naming Policy
4. Plain language guide: When there are concerns about your health

Version control

Policies replaced or rescinded by this policy	
HAF002	Fitness to practise and fitness for registration
HAF003	Management of health impaired practitioners
HAF003S	Policy statement on supporting the health and wellbeing of OHPs
REG002	Notification to relevant responsible authorities (see also Notifications Policy)