

## Public consultation

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### Proposed change to the protected title for the specialty of podiatric surgery

#### Summary

In October 2023, the Podiatry Board of Australia (the Board) and Ahpra commissioned an independent review of the regulation of podiatric surgeons (the review). The review published its final report in March 2024, making 14 recommendations to improve patient safety in the practice of podiatric surgery.<sup>1</sup> The Board and Ahpra accepted all the review's recommendations.<sup>2</sup>

Recommendation 4 from the review is that: following consultation, the Podiatry Board seek Health Ministers' approval to change the protected title for the specialty from 'podiatric surgeon' to an alternative title, such as 'surgical podiatrist'.<sup>3</sup>

The independent review found that many consumers did not understand the term 'podiatric', and they thought the use of the title 'surgeon' indicated that the practitioner was a medical practitioner and had completed their qualifications and training in medicine.

The review concluded that continued use of the title 'podiatric surgeon' is confusing and problematic. The independent reviewer recommended that the title be changed to an alternative title such as 'surgical podiatrist' to make it clear that the practitioner is a specialist podiatrist who performs surgery.

The Board accepted the review's findings and the recommendation to consult on a proposed change to the protected title to reduce consumer confusion about the qualifications, training and type of practitioner they are seeing. This is expected to improve the ability of consumers to make informed decisions when seeking specialist advice about foot and ankle problems.

The Board accepted this recommendation in principle, noting that it does not have the authority to change the protected specialist title. The National Law prescribes that, if specialist registration operates for a health profession, the Ministerial Council (Health Ministers) may on the recommendation of the Board approve a specialist title/s for each listed specialty.

To implement this recommendation, the Board is now consulting on the proposed change to the title.

#### Consultation process

The Board's approach to consultation takes into account the extensive public consultation undertaken as part of the independent review.<sup>4</sup> The Board's approach is informed by the review's final report and the published submissions that are available on the [Past Consultations page of the Ahpra website](#).

The Board invites you to give feedback on the proposed change to the protected title for podiatric surgeons. Public consultation closes on **8 November 2024**.

There are specific questions we recommend you address in your response. They are:

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<sup>1</sup> *Independent review of the regulation of podiatric surgeons: Final report*, March 2024. Available [from the Board's website](#).

<sup>2</sup> The Podiatry Board and Ahpra's joint response, 27 March 2024. Available [from the Board's website](#).

<sup>3</sup> *Independent review of the regulation of podiatric surgeons: Final report*, March 2024, p32. Available [from the Board's website](#).

<sup>4</sup> The review received 130 written submissions, of which 79 were within scope of the review, involved 70 meetings with key stakeholders and the three focus groups with consumers. See the final report of the review, p10.

1. Do you agree with the proposal to change the protected title for the podiatry specialty of podiatric surgery to 'surgical podiatrist' to make it clear that the practitioner is a specialist podiatrist who performs surgery? Why or why not?
2. Do you have an alternative suggestion for the protected title? If yes, how would your suggested title achieve the same result as 'surgical podiatrist' in providing greater clarity to consumers?
3. What are the potential impacts for consumers of the proposed change in title?
4. What are the potential impacts, including potential costs, for podiatric surgeons of the proposed change in title?
5. Are there any unintended consequences the Board might not have considered in relation to the proposed change of title?

### **Making a submission**

Please use the submission template to provide your feedback and email the completed template to: [podiatryconsultation@ahpra.gov.au](mailto:podiatryconsultation@ahpra.gov.au) by **8 November 2024**.

The submission template is provided at Attachment A and is also available on [the 'Current consultations' page of the Board's website](#).

### **Publication of submissions**

The Board publishes submissions at its discretion. The Board generally publishes submissions on its website to encourage discussion and inform the community and stakeholders. Please advise us if you do not want your submission published.

We will not place on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we will remove personally identifying information from submissions, including contact details.

The views expressed in the submissions are those of the individuals or organisations who submit them, and their publication does not imply any acceptance of, or agreement with, these views by the Board.

The Board accepts submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence.

Please let us know if you do not want us to publish your submission or want us to treat all or part of it as confidential.

**Published submissions will include the names of the individuals and/or the organisations that made them, unless confidentiality is requested.**

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## Background

A podiatric surgeon is a podiatrist who holds specialist registration with the Board in the podiatry specialty of podiatric surgery. Podiatric surgeons treat and manage conditions affecting the foot, ankle and related lower extremity structures, both surgically and non-surgically.

Podiatric surgery has been performed by podiatrists in Australia since the 1970's. Podiatric surgeons were originally called 'surgical podiatrists' and in the 1990's the terminology changed to 'podiatric surgeon'.

Since 2010, podiatric surgeons have been regulated by the Board and Ahpra who work in partnership to ensure the community has access to safe podiatric surgery services. The primary focus of the Board is the protection of the public and ensuring public confidence in the safety of services provided by registered podiatrists and podiatric surgeons.

In March 2010, on the recommendation of the Board, Ministerial Council approved specialist registration for the podiatry specialty of podiatric surgery. Ministerial Council also approved the specialist title of *podiatric surgeon*.<sup>5</sup> An approved specialty reflects a distinctive practice area with specialist knowledge and skills over and above those required for generalist practice in a profession. Specialist registration identifies practitioners who have acquired additional education and qualifications for the specialty. It is unlawful for someone to knowingly or recklessly take or use a specialist title for a recognised specialty unless the person holds the necessary registration.

At 30 June 2024, there were 6,135 registered podiatrists in Australia. Of these, 42 (0.7%) hold specialist registration as a podiatric surgeon.

### The Independent review of the regulation of podiatric surgeons

In October 2023, the Board and Ahpra commissioned an independent review of the regulation of podiatric surgeons in Australia due to concerns about the relatively high rate of complaints about podiatric surgeons. The purpose of the review, undertaken by Professor Ron Paterson<sup>6</sup>, was to get an independent view of the Board's current regulatory framework for podiatric surgeons and risks to patient safety associated with the practice of podiatric surgery, and recommend improvements or changes that will better protect the public.

The review published its final report in March 2024, and made 14 recommendations to improve patient safety in podiatric surgery.

The Board and Ahpra accepted all recommendations to improve the safety and quality of services provided by podiatric surgeons, better inform patients and the public and strengthen public confidence in the safety of services provided by podiatric surgeons.

## What is the problem?

The independent review, and submissions to the review, highlighted some of the potential impacts that the current protected title can have on patients and consumers.

In both submissions and focus groups with consumers, the independent reviewer heard that patients and consumers are confused about the meaning of the title 'podiatric surgeon'. Many consumers told the reviewer that they did not understand the term 'podiatric'; and they thought the use of the title 'surgeon' indicated that the practitioner was a medical practitioner.

The reviewer noted ensuring consumers have access to clear information that helps them make informed choices about their healthcare is critical to protecting people from harm and promoting public safety. The reviewer also noted that the title a practitioner uses is the first piece of information a consumer relies on in making decisions about their health-care.<sup>7</sup>

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<sup>5</sup> The decision to approve the specialty and specialist title was made under section 13 of the National Law.

<sup>6</sup> Professor Paterson is Emeritus Professor of Law at the University of Auckland and Senior Fellow at Melbourne Law School. He was formerly New Zealand Health and Disability Commissioner and Parliamentary Ombudsman. Professor Paterson is an international expert on patients' rights, complaints, safety and quality and the regulation of health professions.

<sup>7</sup> *Independent review of the regulation of podiatric surgeons: Final report*, March 2024, p29. Available [from the Board's website](#).

The reviewer found that use of the title 'podiatric surgeon' is confusing and problematic and that the confusion and information gaps surrounding the title podiatric surgeon present significant risks to consumers.

The recommendation to change the protected title for the specialty from 'podiatric surgeon' to an alternative title, such as 'surgical podiatrist' aims to help consumers make better informed decisions when seeking specialist advice about foot and ankle problems by making it clear that the practitioner is a podiatrist who performs surgery.

## Why is regulatory change needed?

The Board is committed to strengthening public protection and regulatory effectiveness for the specialty of podiatric surgery and building public trust and confidence in the National Scheme. Ensuring that consumers have access to clear information about a practitioner is the first step in helping consumers make informed decisions about their healthcare.

Before a consumer consults a health practitioner in relation to a health issue, it is important that they know from the outset what type of practitioner will be providing their care. This is particularly important if the consumer is considering undergoing surgery due to its potential to cause serious injury or harm.

In the context of podiatric surgery, it must be clear to the consumer the practitioner is a specialist podiatrist, and not a specialist medical practitioner.

The Board notes the independent review's finding that this cannot be achieved by less directive means than a change to the protected title. However, the Board does not have the authority to change the protected specialist title. The National Law prescribes that, if specialist registration operates for a health profession, the Ministerial Council (Health Ministers) may on the recommendation of the Board approve a specialist title/s for each listed specialty.<sup>8</sup>

## What options are to be considered?

The Board has considered two options in relation to the proposal to change the protected title:

- Option 1 – Retain the current title (status quo)
- Option 2 – Change the protected title

### Option 1 – Retain the current title (status quo)

Option 1 is to continue with the existing protected title *podiatric surgeon*.

Issues raised in the review about the title podiatric surgeon related to clarity and transparency for the consumer about the type of practitioner they are seeing, and the type of training the practitioner has completed. This is important information to enable a consumer to make an informed decision when seeking specialist advice about foot and ankle problems and deciding who will perform their surgery.

The review found that consumers and patients of podiatric surgeons are confused about the meaning of the title 'podiatric surgeon', and about the qualifications held by podiatric surgeons. It also found that consumers believe and expect that someone who calls themselves a 'surgeon' has a medical degree and is a qualified medical practitioner.

The Board accepts the review's findings that the current protected title does not provide sufficient clarity to consumers that a podiatric surgeon is a specialist in the podiatry profession, rather than a specialist in the medical profession and that a change to the title is needed to improve public safety and enable consumers to make more informed decisions when seeking specialist advice about foot and ankle problems.

If the status quo is maintained, there will be no reduction in consumer confusion about what type of practitioner a podiatric surgeon is, and their qualifications and training. This would not improve patient safety and would not reduce the risk of harm. In addition, it could lead to a loss of public confidence in the profession, and in the regulatory system.

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<sup>8</sup> Section 13 of the National Law.

Given the findings and the recommendation of the review, the Board does not consider Option 1 is a viable option.

### **Option 2 – Change the protected title**

Option 2 aligns with the independent review's recommendation for the Board to seek Health Ministers' approval to change the protected title for the podiatry specialty of podiatric surgery to an alternative title such as 'surgical podiatrist', following consultation.

This option responds to the independent review's finding that moving to a title such as 'surgical podiatrist' would reduce consumer confusion and potential harm and enable consumers to make informed decisions when seeking specialist advice about foot and ankle problems.

The title 'surgical podiatrist' is expected to make it clear that the practitioner is part of the podiatry profession and the use of the adjective 'surgical' would make it clear that these specialist podiatrists perform foot surgery. If this were clear from the start, it is expected that this would reduce consumer confusion about the type of practitioner they are seeing, their qualifications and training and enable them to make more informed decisions about their healthcare.

During the review, some stakeholders suggested that the protected title be changed to operative podiatrist or operating podiatrist. As noted in the review, the protected title for the specialty needs to be relevant to the practice of podiatric surgery, otherwise consumers will likely still be confused. The protected title also needs to differentiate practitioners with specialist registration from podiatrists with general registration and clearly indicate that the practitioner performing the surgery is from the podiatry profession. The review concluded that operative podiatrist or operating podiatrist is less precise. The Board agrees with the independent review that these terms would not be as clear to consumers as 'surgical podiatrist'.

For these reasons, Option 2 is the Board's preferred option, and the title 'surgical podiatrist' is the Board's preferred title.

### **What is the likely net benefit of each option?**

The Board has reviewed the potential impacts and likely net benefit of each option.

#### **Option 1 – Retain the current title (Status quo)**

Option 1 is to continue with the existing protected title podiatric surgeon. As outlined above, the Board does not consider this to be a viable option.

There are no additional benefits for consumers or the broader community from this option. As outlined above, and in the independent review, consumer confusion about what type of practitioner a podiatric surgeon is, and their qualifications and training will not be addressed. This would not improve patient safety and could lead to a loss of public confidence in the regulatory system.

There would be a neutral impact for existing podiatric surgeons from maintaining the status quo as no changes would be needed to how they describe their practice to align with a new title.

#### **Option 2 – Change the protected title**

The key benefit of the proposed protected title 'surgical podiatrist' is that it makes it very clear to consumers that the health practitioner is a specialist in the podiatry profession (rather than the medical profession) and that they perform foot surgery. As a consequence, this is expected to improve transparency and public safety and ensure consumers are better placed to make informed decisions when seeking specialist advice about foot and ankle problems.

The Board recognises that if the change to the title is approved by Ministers, there will be associated costs for existing registered podiatric surgeons, who would need to make changes to their business practice, including their advertising and signage to reflect the new title. Viewed through the lens of the podiatry profession nationally, the relative scale of change is small, with 42 of 6135 (0.7%) of the profession holding specialist registration as a podiatric surgeon.

The Board acknowledges the impact of these costs on practitioners, however, seeks to minimise the likely costs by setting an appropriate transition period before any changes are implemented. This will ensure currently registered podiatric surgeons have enough time to make changes to reflect the new title. The

Board considers a potential benefit to podiatric surgeons is that their patients would have a better understanding of who they are and what they do.

The Board recognises that there would be compliance costs for the two education providers who offer podiatric surgery education programs, as they would need to make language changes to their program materials, websites and the like. Similarly, peak bodies and professional associations would have to make language changes to their membership and marketing materials to reflect the new title.

There would also be compliance costs for the Board and Ahpra, who would need to make language changes to regulatory documents to reflect the new title, including changes to registration standards, codes and guidelines. However, the Board's primary obligation is to protect the public and maintain public confidence in the safety of services provided by podiatric surgeons. The Board considers that the potential benefit to consumers and the wider community of changing the protected title outweighs potential impacts and related compliance costs. The Board expects to be able to absorb the small costs associated with regulating a title change, should this be the outcome.

State and territory governments may also need to review and amend legislation where it includes references to podiatric surgeons. We understand this would be minimal cost and could be undertaken as needed and subject to government priorities.

The Board is using this public consultation process to better understand the likely benefits, impacts and costs of changing the title. The Board will consult with key stakeholders including consumers, peak bodies, education providers, patient and consumer groups and other relevant organisations to test the proposed title change and to help ensure there are no unidentified impacts.

### **Relevant sections of the National Law**

The relevant sections of the National Law are:

- Section 13 – Approvals in relation to specialist registration
- Section 3 – Objectives and guiding principles
- Section 3A – Paramount guiding principle

### **Next steps**

The Board will consider the feedback it receives from this public consultation before submitting a proposal to Health Ministers for consideration.

If a change in title is approved by Ministers, the Board will develop information for consumers to support their understanding of the new title and what it means.<sup>9</sup> The Board will also develop information for podiatric surgeons to support the transition to the new title.

If a change to the protected title is not approved by Ministers, the Board will develop information to support consumers to understand the current title.

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<sup>9</sup> The development of additional information for consumers responds to Recommendation 5 from the review, which states: subject to recommendation 4, the Podiatry Board and Ahpra develop additional information for consumers to support their understanding of the title and what it means. *Independent review of the regulation of podiatric surgeons: Final report*, March 2024, p32. Available [from the Board's website](#).