

# Disability Worker Registration Board of Victoria

**Disability Worker Regulation Scheme proposed registration standards**  
Consultation paper

# Purpose of consultation

On 23 August 2018, the Victorian Parliament passed the *Disability Service Safeguards Act 2018* (the Act). The Act establishes the Disability Worker Regulation Scheme (the Scheme), which will commence on 1 July 2020. The Scheme applies to all disability workers in Victoria, regardless of the funding source for the disability services provided.

The Disability Worker Registration Board of Victoria (the Board) will regulate disability workers and students who are registered with the Scheme. The Victorian Disability Worker Commissioner will regulate unregistered disability workers. Registration with the Scheme is voluntary. Registered workers will be able use legally protected titles of 'registered disability worker', 'registered disability support worker' or 'registered disability practitioner'.

The Board is responsible for registering disability workers and for setting the standards for registration. Registration standards are used by the Board to assess whether an individual is suitable for registration because they can demonstrate they can practise competently and safely. Registered workers will need to renew their registration each year and may need to demonstrate they have complied with requirements the Board may set for practice.

This consultation paper seeks feedback on the registration standards proposed by the Board for the first registration period of the Scheme. The Board will review and amend standards before the second registration period and as the Scheme matures and the Board learns more about the workforce being regulated and the needs of people receiving disability services.

## Overview

Individuals can apply for registration as a 'disability support worker' or a 'disability practitioner'. These different categories of registration are called divisions. To be registered, an applicant must satisfy the Board that they are professionally competent to practise in the division of registration they apply for. Registration standards and guidelines will set different criteria for each division of registration.

The Board must keep a publicly available register of all registered disability workers on its website. Certain information must be recorded in the register, such as the workers name, type of registration and date on which the worker first registered along with any other information the Board considers appropriate. The register may provide useful information to people with disability and employers about disability workers, including a worker's skills and attributes.

The Act provides for the first two years of the registration Scheme to operate slightly differently than it will after this time. During this transitional time the Act allows existing competent disability workers to qualify for registration even if they don't meet standards the Board may set regarding qualifications. The Board can assess applications made before 30 September 2022 with reference to qualifications and training **or** work experience, as well as professional competence. This approach recognises the value of work experience as well as qualifications and training and encourages as many workers as possible to register in the early years of the Scheme. These transitional arrangements are not the same as registration standards as they allow the Board to assess the professional competence of individuals based on a range of factors. Guidance will be published to help applicants understand how the Board will assess suitability for registration under the transitional provisions of the Act.

Another reason the Act provides for a transitional time is to allow the Board to undertake further research and consultation and collect data about the disability workforce to inform standards for registration after the transitional period. Information collected through the registration process will help the Board learn more about the workforce and ensure future registration standards are appropriate and practical.

## Registration standards

The Board may set registration standards in a number of areas. These areas are detailed below, including the Board's proposals for registration standards in the first period of registration.

Please see questions related to each area to guide your feedback to this consultation paper.

## Professional indemnity insurance arrangements

The Board can set registration standards about an applicant's professional indemnity insurance arrangements. Professional indemnity insurance arrangements may be more appropriate for some types of disability workers than for others. In some cases, a disability worker's employer, labour hire company or union will provide them with insurance coverage. If the Board sets a registration standard requiring professional indemnity insurance, other workers, including sole traders, would need to take out personal insurance cover in order to be registered. The costs involved with an insurance cover requirement may be a disincentive for those workers to register with the Scheme.

### Proposal

The Board will *not* set a professional indemnity insurance registration standard for the first period of registration. The Board will request details of insurance cover from applicants for registration but will not display this information on the register.

### Questions

- What types of insurance are relevant to disability workers?
- Is insurance provided by employers, unions, associations or individual workers?
- Which workers are unlikely to have insurance arrangements in place?
- How important is insurance cover, and what type and level of cover is ideal?
- How might insurance cover standards be different for practitioners and support workers?

## Criminal history

The Board can set registration standards about criminal history. The Act requires the Board to assess a disability worker's criminal history before deciding whether to grant their application for registration.

The National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission requires all NDIS-registered providers to ensure their employees undertake a worker screen. The NDIS worker screen includes a criminal history check that involves a point-in-time national police check and ongoing monitoring of the worker against an agreed list of offences. The NDIS worker screen has been developed through negotiations between the Commonwealth and State and Territory governments to ensure that a single national standard will be used to assess the safety of all disability workers. See more information about the *Intergovernmental Agreement on Nationally Consistent Worker Screening for the NDIS* here – <https://www.coag.gov.au/about-coag/agreements/intergovernmental-agreement-nationally-consistent-worker-screening>. Even though not part of the criminal history standard, the Board can decide a disability worker is not suitable to be registered if they have been prohibited or banned from providing disability or other related services due to unsatisfactory professional conduct or performance. The Board can also decide, for any other reason, that the worker is not a fit and proper person for registration.

### Proposal

The Board *will* set a registration standard about criminal history from the commencement of the Scheme on 1 July 2020. The criminal history check will be consistent with the criteria for the NDIS worker screen.

### Questions

- Are there any disadvantages with adopting a criminal history check using identical criteria to the NDIS worker screen?

## Continuing professional development

The Board can set registration standards about continuing professional development. It is common for workers to have and maintain training in first aid and cardiopulmonary resuscitation (CPR). Other professional development is undertaken in areas such as, epilepsy management, dysphagia support, person-centred support, community inclusion, positive behaviour support, preventing and responding to abuse and neglect, and working effectively in an NDIS service environment. Practitioners may also attend conferences and training to extend their scope of practice.

A registration standard that requires workers to complete continuing professional development activities will support workers to maintain and build on knowledge and skills and to promote their point of difference to employers. However, a requirement to complete continuing professional development activities will impose time and financial costs. These costs may be absorbed by employers or workers or both.

### Proposal

The Board will *not* set a registration standard about continuing professional development for the first registration period, however the Board is considering setting a registration standard of a minimum of 10 hours per year commencing in the second registration period. The standard will require workers to complete 10 hours of professional development during the registration period and declare this when they apply for renewal of their registration. The Board will collect information about the types and amount of continuing professional development workers generally undertake through applications for registration during the first registration period. The Board will not display this information on the register.

### Questions

- How many workers undertake professional development, and how do they pay for training?
- Is 10 hours of continuing professional development per year enough to maintain or increase worker skills and knowledge? Are the time and costs of this amount reasonable?
- What areas of professional development are desirable? What is an appropriate balance between maintaining skills and developing new skills?
- What types of activities and modes of delivery suitable for professional development (such as online modules, in-house training, attendance at information sessions/seminars, formal training)?
- Should common requirements such as maintaining currency in first aid and CPR be included in the 10 hours of professional development?
- How might the standard be different for practitioners and support workers?

## Language skills

The Board can set registration standards about an applicant's English language skills. The Board may decide an individual is unsuitable for registration if their competency speaking or communicating in English is insufficient to practise as a disability worker.

Disability support work is diverse and ranges from complex medical and therapeutic care, enabling engagement and social relationships to transport, companionship and household duties. In some roles it will be essential for a disability worker have an adequate understanding of English, for example in administering medications, writing incident reports or applying a person's health and support plans. It may be that practitioners are more likely to require comprehensive English language skills given the roles they perform. However, in some cases, workers from culturally and linguistically diverse backgrounds will be best able to meet the needs of people with a disability who share similar backgrounds. People from diverse backgrounds should not be discouraged from working in the disability sector.

## Proposal

The Board will set a registration standard about English language skills for the first registration period. The standard will require workers to be competent in speaking or communicating in English. The Board will collect self-declared information about an applicant's competency in speaking or communicating in English, and about competency in languages other than English, and display this information on the register.

## Questions

- How necessary are English language skills to delivering disability services?
- Is self-declared competency in speaking or communicating in English enough or should workers provide evidence of their competency? What would be an effective and efficient way of assessing and proving competency?
- Is self-declared competency in speaking or communicating in any other language(s) sufficient or should workers provide evidence?
- How might an English language standard be different for practitioners and support workers?

## Nature, extent, period and recency of any previous practice experience

The Board can set registration standards about the nature, extent, period and recency of an applicant's practice as a disability worker and may decide an applicant is unsuitable to hold registration if their experience is insufficient to meet the requirements specified in the standards. Given the transitional provisions, any registration standard set by the Board about recency of practice would not come into effect until 1 October 2022.

Recency of practice standards are designed to ensure a worker can provide a safe and competent service, can maintain their knowledge and skills, can ensure their practice remains up-to-date and can ensure they have experience relevant to the services they provide. Career pathways in the disability sector are diverse and range from service-delivery roles through specialist and professional services, management and administrative support roles. This diversity makes it difficult to ensure a registration standard in relation to recency of practice will be relevant across the workforce.

## Proposal

The Board will *not* set a registration standard about recency of practice for the first registration period. The Board will collect information about recency of practice from applicants for registration. The Board will not display this information on the register.

## Questions:

- Should workers be required to demonstrate a period of continuous practice? How long is enough?
- Should workers be required to demonstrate recent practice? How recent should it be?
- If a worker has a break from practice, how long is too long to demonstrate sufficient recency and continuity of practice?
- How might a recency of practice standard be different for practitioners and support workers?

## Physical and mental health

The Board can set registration standards about an applicant's physical and mental health. The Board can decide an individual is not suitable to be registered as a disability worker if they have an impairment that detrimentally impacts their capacity to provide a safe service.

The Board may ask an applicant for registration to self-disclose information about impairments as part of the application process. A penalty of up to \$30,000 can be imposed by the Victorian Civil and Administrative Tribunal (VCAT) if false or misleading information is provided to the Board in an application for registration. There is the risk that a registration standard in relation to an applicant's physical and mental health could inadvertently encourage

discrimination, so matters of impairment may be better managed on a case-to-case basis rather than through a registration standard.

The Board will consider information disclosed as part of an application in the context of ensuring the safety of people with disability and the public.

## **Proposal**

The Board will *not* set a registration standard in relation to physical and mental health for the first registration period. The Board will require applicants for registration to declare any impairment they have that may detrimentally impact on their ability to safely deliver disability services.

## **Questions**

- What type or level of impairment might pose a risk to the safety of a person with disability and/or the public?
- What things should an applicant for registration and the Board consider in understanding what types of impairment may pose a risk to safety?
- How might a mental and physical health standard be different for practitioners and support workers?

## **Scope of practice**

The Board can set registration standards about an applicant's scope of practice. Scope of practice standards can be developed to either limit or extend a worker's capacity to practise. A registration standard could be developed that specifies a disability worker must not practise in certain areas unless they have received appropriate education or training. Similarly, a disability worker's scope of practice could be extended through the individual completing specified education or training.

Scope of practice registration standards could be developed in relation to specialised areas such as providing personal care for people with urinary devices, providing specialist feeding, complex bowel care, administering medication, providing tracheostomy care, using restrictive practices, using Active Support, and performing allied health tasks or specialising in working with people with specific types of disability such as autism or acquired brain injury . However, requiring formal qualifications or training in such areas may place a significant burden on disability workers or employers in terms of time and cost and may discourage disability workers from registering with the Scheme.

## **Proposal**

The Board will *not* set a registration standard about scope of practice for the first registration period. The Board will ask applicants to provide details of any relevant training or qualifications they hold that extend their scope of practice. This information will not be displayed on the register.

## **Questions**

- Is there value in extending or limiting scope of practice by setting standards?
- What areas could be defined with a scope of practice standard and how could competence be demonstrated?
- How might scope of practice standards be different for practitioners and support workers?

## **Other issues relevant to eligibility for registration or capacity to practise competently and safely**

The Board can set registration standards about any other issues relevant to an individual's capacity to practise safely and competently as a disability worker. The Board does not intend to set additional registration standards while the transitional provisions apply. In the future, some possible areas the Board may consider setting a registration standard about include endorsements, recognition of prior learning and advertising of services provided by disability workers. The Board welcomes feedback regarding these areas and any other relevant issues about which the Board may consider setting a registration standard.

## Question

- Should the Board set standards in relation to any other matter?

## Registration guidelines

In addition to setting registration standards, the Board can also set one or more registration guidelines. Guidelines are intended to give direction to registered disability workers about accepted practice standards once they are registered.

## Proposal

The Board will set a registration guideline requiring registered workers to comply with the Scheme's Code of Conduct. The Code of Conduct is being developed and will apply to unregistered workers in Victoria. Setting this registration guideline will promote consistency across the workforce as all Victorian disability workers will be required to comply with the code of conduct. Consultation on the proposed Code of conduct is currently underway on <https://engage.vic.gov.au/victorian-disability-worker-regulation-scheme> .

## Question

- Are there disadvantages in requiring registered workers to comply with the Code of Conduct?

## Other areas

The Board may decide to set registration guidelines about:

- the use of protected titles under the Act of 'registered disability worker', 'registered disability support worker' and 'registered practitioner'
- advertising of disability services.

With reference to the *NDIS Practice Standards and Quality Indicators*, some other practice areas where the Board may decide to develop registration guidelines are:

- rights and responsibilities, including promoting person-centred support, privacy and dignity, supported decision making, enabling risk as well as responding to and preventing violence, abuse, neglect, exploitation and discrimination
- operational management, including managing risks, complaints, incidents, quality and information
- support access, planning and provision
- provision of a safe environment, management of medication, management of waste and management of client money and property
- early childhood supports
- specialised support coordination
- specialist behaviour support
- high-intensity daily personal activities, including complex bowel care, wound management, ventilation management, subcutaneous injections and enteral feeding

The *NDIS Practice Standards and Quality Indicators* can be accessed here –

<https://www.ndiscommission.gov.au/sites/default/files/documents/2018-07/NDIS%20Practice%20Standards.pdf>

## Questions

- Do any of these matters warrant setting a registration guideline? And why?
- Are there any other areas that may benefit from guidelines to provide direction to the workforce on accepted practice standards?

## Other

The Board welcomes any additional feedback about:

- the kinds of information or material that would assist with communicating the registration standards to people with disability, their families, carers, disability workers and providers
- any other aspects of the proposed registration standards and guidelines you would like to comment on.