

Position Summary

In the interest of competition, the ADA should not set dental fees, register dental practitioners, or accredit dental practitioner education programs leading to registration. However, the ADA should be able to set rules for affiliation and membership of the ADA and seek authorisations from the ACCC on behalf of members which promote a net benefit to the public

1. Background

- 1.1. The Australian Competition and Consumer Commission (ACCC) is an independent Commonwealth statutory authority whose role is to enforce the *Competition and Consumer Act 2010* (Cth) (the Act) and a range of additional legislation, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians.
- 1.2. The Australian Dental Association Incorporated (ADA) has always ensured that its actions are compliant with the Act and its predecessors.
- 1.3. Dental Education and Training
 - 1.3.1. Entry to education and training as a dentist is controlled by governments and the universities and is determined by entry qualification.
 - 1.3.2. There are both government-supported and fee-paying places for this training.
 - 1.3.3. Specialist post-graduate training is by and large determined by the Universities.
 - 1.3.4. Education and training places for allied dental personnel are++ controlled by governments, universities and TAFE institutions.
 - 1.3.5. The ADA does not determine the number of education and training places, nor is it an examining or dental education accrediting authority.
 - 1.3.6. Overseas qualified dentists are examined for equivalence with Australian qualifications by the Australian Dental Council.
- 1.4. Dental Registration

Dentists and other dental practitioners are registered by the Board and the ADA has no control over whether or not they participate in the dental workforce.
- 1.5. Fee Setting
 - 1.5.1. The ADA neither sets nor maintains a fee schedule.
 - 1.5.2. The responsibility for setting of fees rests with the individual dentist unless in a shared practice operating as a partnership or as an incorporated entity in which case dentists can agree on common fees.
 - 1.5.3. Where a practice does not run under a partnership or a single corporate entity, the ACCC has granted authorisation for 10 years from 18 April 2013 for the making of and giving effect to contracts, arrangements or understandings between two or more dentists and/or dental specialists as to the fees to be charged for dental services provided in a practice, where:
 - a. at least one party to the contract, arrangement or understanding is a member of the ADA; and
 - b. the parties to the contract, arrangement or understanding operate a practice that shares:

This Policy Statement is linked to other Policy Statements: 5.7 Professional Indemnity, 5.8 Dental Acts, the National Law and Boards, 5.9 Dental Accreditation Authority, 6.9 Advertising in Dentistry & 6.26 Dental Fees

- i. a common practice trading name
- ii. staff, for example, dental hygienists, administrative and support staff
- iii. dental records and treatment of patients by other members of the practice
- iv. a common reception and premises
- v. dental equipment and supplies.¹

1.5.4. The ADA has advised members on mechanisms for establishment of their fees, including the examination of various benchmarks. However, at all times, it is made quite clear that the fees set by a dentist are for that dentist alone to determine

1.5.5. Future predictions or future trends in dental fees are neither canvassed by the ADA nor discussed with members.

1.6. Ethics

1.6.1. The ADA Code of Ethics defines patterns of behaviour and clinical practice that are designed to ensure optimum dental care for the community. A number of restrictions which were imposed in the past have been eliminated in order to achieve compliance with the Act.

1.7. Membership

1.7.1. The ADA has ensured that its membership arrangements are in accord with the Act. The linking of Branch and Federal membership has been subject to a successful Notification process with the ACCC².

1.7.2. The ADA accepts application by any registered dentist, through its Branches, for membership. Membership is not restricted, declined or suspended for any reason other than those associated with the maintenance of high professional standards, and in the interest of public health and safety.

1.7.3. Any dentist so excluded from ADA membership, or who declines to seek it, is entitled to practise dentistry in the various States and Territories of the Commonwealth of Australia, providing he/she is registered to do so by the Board. The ADA exercises no controls in this regard.

1.8. Affiliation

The linking of ADA and affiliated body or association membership has been subject to a successful Notification process with the ACCC.

1.9. Professional Indemnity Insurance

ADA Branches accept members who place their professional indemnity cover with a variety of Australian and international providers of professional indemnity insurance

¹ ACCC Authorisation numbers: A91340 and A91341 27 March 2013

² ACCC Authorisation for Shared Practice fees N90375-82

Definitions

- 1.10. BOARD is the Dental Board of Australia.
- 1.11. DENTAL PRACTITIONER is a person registered by the Board to provide dental care.

2. Position

- 2.1. The ADA undertakes to strictly comply with the Act.

2.2. Dental Training

- 2.2.1. Governments, Universities and TAFE institutions in consultation with stakeholders, should determine training places for dentist and allied dental personnel.
- 2.2.2. The Australian Dental Council is the appropriate body to examine and access overseas qualified dental practitioners to practise in Australia.

2.3. Dental Registration

Dentists and other dental practitioners, must be registered by the Board before they can practise.

2.4. Ethics

The ADA should maintain the Code of Ethics to guide members' conduct in practice. This Code must encourage compliance with the law.

2.5. Fee Setting

- 2.5.1. The ADA should not set fees nor maintain a fee schedule.
- 2.5.2. Individual dentists should set their fees independently unless they are in a shared practice operating as a partnership or as an incorporated entity, or in a shared practice compliant with the requirements of ACCC authorisation A91340 and A91341 in which case dentists can agree on common fees.

2.6. Membership

- 2.6.1 Applicants accepting membership of the ADA must agree to abide by the ADA's Constitution and By-Laws.
- 2.6.2 All ADA members must also be members of their Branch.

2.7. Affiliation

At least 80 percent of members of affiliated bodies or associations must be members of the ADA or the NZDA.

2.8. Professional Indemnity Insurance

ADA members who are practising dentistry must have professional indemnity cover.

Policy Statement 1.3

Document adopted by ADA Federal Council, April 15/16, 1999.

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