



Many dental businesses operate as privately owned 'Pty Ltd' companies

When operating through a company, it is important that other parties with whom you interact, whether they are patients, suppliers, regulatory authorities or others, are able to ascertain exactly who they are engaging with.

The following is intended either as a refresher or an introduction to some basic concepts and requirements.

Legal Capacity and Powers of a Company **Company Names and ACNs**

Under the Corporations Act 2001 (Cth), a company must prominently display its full corporate name at every place open to the public where it carries on business. In a dental context, this means the premises at which you conduct your dental practice.

The Corporations Act also dictates that a company must set out its name and Australian Company Number ("ACN") on a wide range of business documents. Alternatively, the Australian Business Number ("ABN") can be stated instead of the ACN if the last 9 digits of the ABN and ACN match.

These requirements apply to documents including (but not limited to): business correspondence, statements of account, invoices, receipts, orders, and other official notices issued by a company.

Business Names and ABNs

Many companies carry on business not under their own corporate name, but under a separate business name. By way of illustration, a search of one of the large corporate dental groups reveals almost 6 pages of registered business names.

Where a company trades under a business name, the Business Names Registration Act ("Business Names Act") applies in addition to the Corporations Act. The Business Names Act requires that the business name must be registered to the company on the Business Names Register maintained by the Australian Securities and Investments Commission ("ASIC").

Similar to the requirement in relation to company names, entities carrying on business under a business name must also display that business name prominently at each place of business which is open to the public.

If a company trades under a business name, there is a further requirement that when communicating with another party in a business document, that document must state the business name and in certain types of business documents, also the ABN in a clearly legible manner. These requirements apply to documents including: documents lodged with ASIC; statements of account, invoices and receipts; orders for

goods/services; cheques and similar instruments; and offers to provide goods or services.

Rather than trying to ascertain when an ABN is or is not required to be stated, in order to comply with the Business Names Act, it is recommended that a company simply always includes its ABN and business name (where applicable) on all documents used in connection with its business.

Pulling This All Together

In light of the above, there are some relatively simple and logical considerations for dental practices to bear in mind, if set up as companies:

1. Does the company carry on business under a name that is not identical to its complete corporate name (eg '[COMPANY NAME] Pty Ltd')?

If yes, the company must register the name under which it trades (ie conducts its business) as a business name with ASIC under the Business Names Act.

2. At your dental practice, you must prominently display:

- a. **Your full corporate name.** This could be by way of an appropriate sign, or the company's certificate of incorporation issued to your company by ASIC.

AND

- b. **Your registered business name (if applicable).** This could be by way of the business name registration certificate issued to your company by ASIC.

Your reception area is a logical place to display the above.

3. When your company issues documents and communicates with other parties in the course of its business, it must (in most cases):

- State the company's complete corporate name.
- State the company's registered business name (if any).
- State the company's ACN (in the form ACN XXX XXX XXX).

OR

Alternatively, if the ABN is identical in its last 9 digits to the company's ACN, you can state the ABN (in the form ABN XX XXX XXX XXX).

Although there are certain instances where it may not be strictly necessary, in order to give yourself comfort that you have complied with the relevant requirements of both the Corporations Act and Business Names Act, it is recommended that on written business documents you simply state your company's corporate name, registered business name (if any) and ABN, in the form of "[COMPANY NAME] Pty Ltd trading as [REGISTERED BUSINESS NAME] ABN XX XXX XXX XXX".

A quick win would be to incorporate this information on your practice letterhead and invoices, if you do not already do so.

It is hoped this article will be of some assistance to dental practices set up as Pty Ltd companies. Different considerations may apply to sole traders, partnerships, publicly listed companies, trusts, and incorporated associations. As always, if in doubt seek advice from a lawyer experienced in corporate and commercial matters (ideally, one who understands the dental industry).

Is there a question you would like to ask?

Please send us your questions to ceo@adawa.com.au

All questions will be posted anonymously. You can enter your email address if you want us to let you know if the answer to your question is published.

Please note that we are not able to answer all questions.

The content of this article is intended to provide a general overview and guide to the subject matter. Specialist advice should be sought about your specific circumstances.



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