

Arbeidsliv

Norwegian Authorization – Norwegian Language Proficiency ... once again¹

Dentists educated within the EEA-Area, are granted an authorization as a dentist in Norway, without assessment of Norwegian language skills. Does this mean that dentists with foreign backgrounds can practice as a dentist in Norway without Norwegian language proficiency? The simple answer to this question is no.

 **TONÉ GALAASEN, ATTORNEY AT LAW, THE NORWEGIAN DENTAL ASSOCIATION**

Norwegian authorization without language evaluation

Both written and spoken language proficiency is required of all dentists who practice in Norway, although dentists educated in another EEA-country are not required to prove Norwegian language proficiency when applying for authorization in Norway.

The Ministry of Health and Care Services reasons that it is up to the employer to check the proficiency of an applicant for a professional health care position. It's important however, to notice that also self-employed dentists in private practice must have sufficient Norwegian language skills to fulfill the requirements of the law. All dental practitioners should be acquainted with possible consequences of inadequate language skills.

The Health Personnel Act §4 – Reliability/Safety

Health professionals have a personal and independent responsibility for reliable and safe practice. They are obliged to execute their work according to the requirements for the safe, reliable, and considerate help which can be expected according to their qualifications, the nature of the work, and the given situation in general.

The consequence of insufficient language skills can be the loss of authorisation as a dentist, when it leads to irresponsible activities. The Norwegian Board of Health Personnel states that "There is a fundamental requirement for health personnel exercising their profession in Norway that they should have sufficient knowledge of the Norwegian language. Knowledge is particularly important in communication with patients, and in order for the documentation to be understood by anyone other than the complainant. ... This overall requirement for prudent activities, including proper communication, applies even if

there are no specific requirements for language skills prior to authorisation"².

Inadequate language skills have also led to reactions against health personnel from The Norwegian Board of Health Supervision, who have stated: "The ability to understand the Norwegian language and to be able to communicate with health care givers, patients, and next of kin, is also a requirement for functioning as a physician." This also applies to dentists.

In a case brought before the Board of Health Supervision, a health services institution was instructed: "The employer is responsible for its staff having adequate language skills to function reliably and safely."

The Health Personnel Act § 6 Resource usage and The National Insurance Act § 5-6

Health personnel shall ensure that the healthcare does not inflict unnecessary loss of time or expense, on the patient, health institution, the authorities or others. The main rule is that adult patients themselves have to pay for dental treatment in Norway. However, some patients have the right to be reimbursed for expenses for "examination and treatment by a dentist for disease".

Sufficient Norwegian skills are required to familiarize themselves with, and be able to follow, detailed and complicated regulations for reimbursement from the authorities (Helfo). Inadequate language skills can lead to patients not being given the rights they are entitled to. However, errors and misunderstandings, or misuse of the regulations, can also have major consequences for the individual dentist, who risks high demands for repayment of incorrectly paid reimbursements. In

severe cases, this may lead to the loss of the right to practice at the expense of Norwegian authorities.

The Health Personnel Act § 10 and the Patient and User Rights Act

The basic concern for the welfare of the patient has a central position. The patient has a natural need for information and communication in a language he/she understands. The patient must have the information necessary, in order to understand his/her health situation, the content and extent of the treatment offered, and possible risks and side effects. Health personnel shall, as far as possible, assure that the patient has understood the content and significance of the information given. This is necessary for the patient, to be able to evaluate the situation and give his/her consent to treatment.

Norwegian language in medical records. The Health Personnel Act §§ 39-40 and the Patient Record Regulation § 10

Patient records shall as a main rule be written in Norwegian. It is assumed that foreign personnel in Norway, who offer health services on an independent basis, also is capable of writing patient records in the Norwegian language. It is important that the records is written in a language which can be understood by all medical personnel for use in Norwegian health and medical care services. Established medical terms may, of course, be used.

Danish and Swedish may also be used, where this is justifiable. Special words and expressions, which differ essentially from the Norwegian, ought to be avoided, explained or translated, to avoid misunderstandings.

In particular situations the Norwegian Board of Health Supervision may give permission to use another language, e.g. English. Permission is given only in special cases, e.g. if a foreign dentist is only treating persons in the service of an embassy of his or her home country.

The Gender Equality and Discrimination Act

Discrimination on the grounds of language is as a main rule forbidden. Discrimination is however not illegal when it has a just objective, when it's necessary in order to reach this objective and when it's not unnecessarily encroaching. The Equal Opportunities Commissioner has established that it is a just omission, and not against the law, to place decisive importance to an applicant's lack of written language proficiency in positions where language proficiency is essential to the position.³

Directive 2005/36/EC The Professional Qualifications Directive and language requirements.

Regulation concerning authorization, licence and specialist validation for health personnel with professional qualifications from other EEA-countries or Switzerland § 24

Foreign dentists whose professional qualifications have been approved within the EEA, shall also have the language skills necessary to deliver safe and reliable professional care in Norway (as the host country).

The regulation §24 on language requirements contributes to an increased awareness that EEA citizens who apply for positions in Norwegian health services "shall have a knowledge of languages necessary for practising the profession in the host Member State"...

EFTA⁴ has ascertained that authorization may be denied when documentation demonstrates that the conditions for retracting an authorization in accordance with national regulations, cf. Health Personnel Law §§ 57-58, even if the requirements in the Directive 2005/36 EF on mutual recognition of professional qualifications are fulfilled.

This is followed up by the Norwegian Health Personnel Board⁵ which has affirmed a decision on denying authorization on, among other things, lack of adequate language skills.

The Directive on the recognition of professional qualifications Article 53 Knowledge of languages, clarifies that the host state (in this case Norway), has the authority to set language requirements, if this is of importance for performance in a given profession, e.g. where patient safety may be in question. Evaluation of the professional's language competence must ordinarily be carried out after the applicant's professional qualifications have been approved.

The preamble paragraph 26 underlines: "... Competent authorities should be able to apply language controls after recognition of professional qualifications. It is important for professions that have patient safety implications in particular that language controls under Directive 2005/36/EC be applied *before* the professional accesses the profession in the host Member State.

Controlling language proficiency shall be reasonable, assessed against the professional activity to be performed. Different jobs will require different levels of language proficiency. The requirements will differ within the same groups of health professionals. The language requirements designated as necessary for safe, correct professional service must be evaluated specifically for each task or position in question. This means that the EEA countries cannot require systematic language tests.

The Norwegian Dental Association, The Norwegian Medical Association and The Norwegian Psychologist Association pointed out the need for language control in a joint consultation statement to the Ministry of Health and Care Services 16 September 2016⁶. Norwegian authorities have, so far, chosen not to implement the Directive's provisions on language control.

REFERANSER

1. An earlier version of this article was published in Norwegian and English in Tidende nr. 9 / 2014
2. HPN-2020-2939
3. Case 08/1222
4. The European Free Trade Association's court verdict of December 15, 2011 is an advisory statement, among other things, on a member state's authority in language skills requirements for authorization for physicians which is covered by EEA rules on automatic authorization of professional qualifications.
5. The Health Personnel Board, case 11/169 cf. law concerning health personnel § 53, section 2
6. The Ministry's consultation paper on the implementation of Directive 2013/55/EU and the joint consultation statement can be read here: <https://www.regjeringen.no/no/dokumenter/horing---endringer-i-eos-forskriften-om-godkjenning-av-helsepersonell---gjennomforing-av-endringer-i-eus-yrkeskvalifikasjonsdirektiv/id2501546/?uid=7fec590a-09b0-4f62-88dc-5274cf6dfe53>

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