

Health Practitioners Competence Assurance Act 2003 – Review

The Ministry of Health is consulting on the operation of the Health Practitioners Competence Assurance Act 2003 (the Act), in accordance with section 171 of the Act. The following comments are provided on behalf of xxxx to assist the Ministry of Health in its review.

Overall, xxxx would like to comment that the Act has functioned well for the past three years. Suggestions for minor improvements are outlined below.

1. Sharing of information between provider organisations

Following the Health and Disability Commission investigation of the Tauranga hospitals, concerns have been raised about the most appropriate way for provider organisations to share competency concerns about health practitioners working in their facilities. It is important that information is shared so that processes to manage competency concerns are coordinated, but provider organisations also need to ensure that there are not breaches of either privacy or employment processes. As noted in the Health and Disability Commission report on the Tauranga hospitals, there are gaps in the Act in relation to sharing of information between responsible authorities and private hospitals, and the Act also does not cover employer-to-employer information sharing.

While practical solutions can be put in place to allow information sharing about competency, it would be useful if the Act specifically provided for the sharing of information between provider organisations (such as District Health Boards and private hospitals). This will facilitate prompt notification of competency concerns and coordination of responses by provider organisations.

2. Health practitioners unable to perform their required functions (section 45)

Health practitioners who present as patients

There have been instances where a health practitioner seeks services from the organisation for which they work, and the care required indicates that the health practitioner has a mental or physical condition that may impact on his/her ability to perform the functions required of him/her. The approach has been to encourage the patient to report their condition to their professional body, but this will not always occur. This can lead to concerns about whether or not to disclose the information, as it was collected to provide health care services and collection was not related to the patient's role as an employee or health professional.

Referrals

It would be useful if additional guidance could be provided on what is meant by "unable to perform required function". It would also be useful if this guidance could address when potential problems should be dealt with by an employer and when they should be elevated to the appropriate professional body.

3. Feedback on competency reviews

When an organisation reports competency concerns under section 45, or an individual reports competency concerns on behalf of an organisation under section 34, it would be useful if the Act required the registering body to respond to the organisation (whether public or private) confirming that a competency review has been carried out.

It would be useful, but not essential, to provide a summary of the action that was taken and what the authority's opinion was based on. With appropriate feedback, a provider organisation can ensure that appropriate supervision and oversight is available.

4. Students and competency concerns

Section 45(5) provides that where an education provider has concerns that a student will be unable to perform the functions required for the profession that he/she is training for, the person in charge of the educational programme must provide written notice of the circumstances to the Registrar of the responsible authority.

In some circumstances, such concerns will be identified by a public hospital where students receive practical experience. It would be useful for the Act to provide for public hospitals to share their concerns with the relevant education provider.

5. Access to health care records

xxxx recently encountered an issue where it was unable to access patient records that were held at the practice of a medical practitioner who was involved in disciplinary proceedings. The medical practitioner was no longer providing services to the patients who had previously been under his care, and the records were required to ensure that the patients who had previously been treated by him received appropriate care from other providers.

It would be useful if the Act specifically provided powers for the Health Practitioners Disciplinary Tribunal to make orders relating to access to clinical records. This will allow better continuity of care.

6. Registration bodies

For some professional groups it can be difficult to establish a responsible body. This is especially applicable to small or highly specialised groups because of the costs involved in setting up and running a responsible body.

It may be useful to have some generic bodies that cover several professional groups. For example, a Technicians Body could cover anaesthetic technicians, renal technicians, and any other technician groups who wish to be registered. This will be particularly important in the context of workforce development, as there is ongoing assessment of how services can be delivered most effectively and how different professions should work together in the delivery process. The extension of scopes of practice for some professions means it is particularly important to have competency assurance systems in place.

7. Timeframes for cases before the Health Practitioners Disciplinary Tribunal

The current timeframes for cases to be processed through the Health Practitioners Disciplinary Tribunal can be problematic, not just for the DHB but for practitioners and patients who are involved. However, this may be something that is a practical problem rather than something that can be addressed in the legislation.