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Review of the Health Practitioners Competence Assurance Act 2003 Identification of issues and solutions

The NZAMH has recently been approved as a health profession under the Health Practitioners Competency Assurance Act. The NZAMH is unable to respond to the majority of this review as we have no current experience of a registration authority. We would like to respond to question 36 only as this relates to future registration authorities.

Part 6 of the Act: Structures and Administration Registration authorities and registration authority structures Number and nature of authorities and new professions

1. How do you think the current number and mix of professions and authorities is operating and what, if any, changes do you think should be made?
2. Are the provisions for adding professions or health services working and what, if any, changes would you make?

The New Zealand Association of Medical Herbalists are currently investigating options for a registration authority. We have been advised by the policy analyst, Sandra Cummings, to wait until the Anaesthetic Technicians review has been completed, such that we can use a similar framework. Sandra has also suggested the possibility of 'sitting under' another registration authority whilst the HPCA Act is reviewed.

We would like to propose that medical herbalists are registered with a new authority called the 'Natural Health Registration Authority.' Such an authority would provide a framework for 'blending' with other natural health professions in the future.

Currently, a number of natural health professions are members of an independent regulatory organisation called the Natural Health Council. It is conceivable that other natural health professions such as naturopathy and homeopathy will seek approval for registration under the HPCA Act in the near future.

We welcome your feedback regarding the establishment of such an authority.

This submission is made on behalf of the Institute of Counselling Psychology of the New Zealand Psychological Society. Responses to questions should be taken in that light, that is, that they represent the views of the Institute on matters of concern to the Institute).

1. Is the Act achieving its purpose? Please explain.

Answer: No, in relation to the applied psychological specialty of counselling psychology.

Explanation: In the document 'Ministry of Health (2007) Review of the Health Practitioners Competence Assurance Act 2003: Identification of issues and solutions, Wellington: Ministry of Health', on page 7, paragraph 3 notes,

"At the time (i.e.2003), and with the exception of the Medical Practitioners Act 1995, the 11 regulatory statutes that existed were generally considered to be out of date, inflexible, prescriptive and not meeting the needs of either consumers or the relevant health professions. The fact that the definition of profession/boundaries of practice was contained in the primary legislation meant it was extremely difficult and time consuming to update as technology, practice and service delivery evolved."

Paragraph 4 continues:

"The current concept of scopes of practice seeks to address this issue by allowing each registration authority to determine what falls within the boundaries of the scope of practices (sic) that make up the profession(s) it regulates."

In the field of counselling psychology, the Psychologists Board has apparently been unable to deal with an application for a Counselling Psychology Scope of Practice lodged in 2004, and despite having undertaken yet a further round of consultation, has decided to suspend consideration of this and other further scopes of practice whilst the operation of existing scopes is reviewed, and pending the outcome of this current review of the HPCA (2003). At the same time, the Board continues to operate (and indeed to award) scopes of practice in the two fields (clinical and educational psychology) that were addressed by the previous legislation. One might argue that the performance of the Board (and hence the Act that it operates under) in this field has reflected a continuation of the situation under the previous legislation, 'out of date, inflexible, prescriptive and not meeting the needs of either consumers or the relevant health professions'.

2. What evidence supports your answer?

See under 1. above.

3. What, if any, comments do you have on the adequacy of evidence available about the success of the Act and any changes needed – including, for example, any reporting requirements that might ensure more open access to evidence that the Act is being effective.

No comment here.

4. Are the provisions in section 7 of the Act operating in a way that ensures that non-qualified persons do not claim or imply to be qualified practitioners and what, if any, changes do you recommend (note that issues around enforcing breaches are dealt with in the section titled 'Enforcement of the Act' which is set out below)?

No comment here.

5. Are the provisions in section 8 operating effectively and what, if any, changes would you recommend?

No comment here.

6. Are the provisions in section 9 and the current list of restricted activities operating effectively and what, if any, changes, amendments or additions would you recommend?

No comment here.

7. Is the Ministry approach to enforcement of the Act in keeping with the purpose of the Act and what, if any, changes would you recommend?

No comment here.

8. Are scopes of practice achieving their intent? Please explain.

Not in the field of counselling psychology. The Board has apparently been unable to recognise a field of professional applied psychology that is established in virtually all if not all other countries with which New Zealand seeks to compare itself (see 1 above), and has apparently decided to delay consideration of the application for a scope of practice in that field until after the outcome of this current review.

9. What, if any, comments do you have on the operation of the powers that registration authorities hold to allow conditions or authorisations on individuals' scopes of practice?

No comment here.

10. Is the process for developing scopes of practice operating well (eg, are there suitable mechanisms for ensuring scopes of practice reflect service need) and what, if any, changes would you recommend?

Answer: No (in the field of counselling psychology).

Recommended Changes:

Perhaps the Psychologists Board needs clearer guidance from the Ministry on the role that it plays in the structure of the profession of applied psychology, and on its duty to reflect the spirit of the Act in the performance of that role.

11. Do prescribed qualifications reflect scopes of practice? Please explain with reference to particular scopes of practice and considering whether a) the levels of qualification are

too low or too high when considering their purpose of assuring public safety, and b) whether they meet the requirements of section 13.

No comment here.

12. With regard to their purpose of assuring the competence of registered professionals, how well are the current recertification regimes working (where possible refer to particular professions)?

No comment here.

13. What changes, if any, are needed to improve the evidence available to answer the previous question?

No comment here.

14. Where recertification arrangements are in place, what issues arise and what changes, if any, would you suggest (eg, in respect of the nature of the programmes, the level of compliance, monitoring practitioners' compliance, the costs and other impacts on practitioners employers etc)?

No comment here.

15. Where recertification programmes have not been introduced how do the authorities assure competence, and are there ways that these processes could be improved?

No comment here.

16. What would be the gains or problems associated with requiring all authorities to institute recertification programmes?

No comment here.

17. Registration authorities have to judge when a practitioner 'may pose a risk of harm to the public' and trigger notification: is this working effectively and what, if any, suggestions do you have to improve effectiveness?

No comment here.

18. Is it appropriate that authorities must notify a particular set of agencies: what changes, if any, are needed?

No comment here.

19. At what times, if any, other than when there is a concern of a risk of harm to the public, should a registration authority exercise its power to review the competence of a health practitioner?
No comment here.
20. Is voluntary reporting by practitioners of possibly unfit practitioners working, on what do you base this opinion, and, in the light of experience, what are your views on making it a requirement to report concerns about a possibly unfit practitioner?
No comment here.
21. Is compulsory reporting by employers of possibly unfit practitioners working, on what do you base this opinion?
No comment here.
22. Are the interests of the public and of practitioners being balanced when dealing with the risk of harm from practitioners who are deemed to fail to meet required standards of competence? Please explain.
No comment here.
23. In practice, do competence and recertification programmes differ, are both sets of provisions needed or should changes be made?
No comment here.
24. Should any other parties be obliged to inform the registrar of a practitioner's inability to perform their required functions because of a mental or physical condition?
No comment here.
25. Are the interests of the public and of practitioners being balanced when dealing with fitness to practise issues? Please explain.
No comment here.
26. Are protected QAAs operating in areas you are familiar with: are they valuable, are there any problems, are the reporting requirements appropriate, should there be any changes to the QAA arrangements, should QAAs continue? Please explain.
No comment here.
27. Are PCCs being used by the registration authorities you are familiar with, how often and for what reasons?
No comment here.

28. To what extent is the suspension of an annual practising certificate and referral of a practitioner to the HPDT effective in protecting the public?
No comment here.
29. What, if any, additional steps should be taken into account when determining to suspend an annual practising certificate?
No comment here.
30. What, if any, benefits or problems have arisen from having a single tribunal for all regulated professions and what, if any, changes would you recommend?
No comment here.
31. Is the current membership structure of the HPDT operating and are there any changes you would recommend (for example, the mix, the selection and appointment processes, training of members)?
No comment here.
32. Is there a need for the HPDT to have the capacity to deal with multi-practitioner/ team-based disciplinary matters and, if so, how should this be organised?
No comment here.
33. Are the current arrangements for financing and supporting the HPDT, appropriate and what, if any, changes would you recommend (including the costs of taking cases to the tribunal and sustaining the operation of the tribunal)?
No comment here.
34. Are the appeal provisions operating well and what, if any, changes would you recommend?
No comment here.
35. How do you think the current number and mix of professions and authorities is operating and what, if any, changes do you think should be made?
No comment here.
36. Are the provisions for adding new professions or health services working and what, if any, changes would you make?
Answer: No, in the case of counselling psychology.

Recommended Changes: Explicit instruction to the Psychologists Board to seek to recognise other applied psychology professions (such as counselling psychology), especially when these already exist elsewhere in the world.

37. Are the current membership and appointment provisions working (eg, is the size and mix right, are people with the best skills being appointed, should the power to hold elections be retained and/or used, are lay and professional members appropriately trained and supported) and what changes, if any, would you recommend?

No comment here.

38. What deletions, amendments or additions, if any, do you recommend to the list of functions – and why?

No comment here.

39. How well are authorities carrying out their functions and what changes, if any, do you recommend?

See answers above.

40. Are there any specific legislative requirements that regulatory authorities are currently subject to that they should not be? Please explain.

No comment here.

41. Are there any specific legislative requirements that regulatory authorities should be subject to that they are currently not? Please explain.

No comment here.

42. To what extent are the current powers of the Minister of Health appropriate to the purpose and effectiveness of the Act and what changes, if any, do you recommend?

No comment here.

43. What changes, if any, do you recommend to matters covered by the provisions of Part 7 of the Act?

No comment here.

44. What changes, if any, do you recommend to specific wording in the Act in order to clarify or address technical issues not otherwise covered already?

No comment here.

45. What, if any, other matters are you aware of in respect of the operation of the Act and what changes do you recommend?

No comment here.