

New Zealand Institute of Dental Technologists inc

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Sector Policy Directorate
Ministry of Health
PO Box 5013
WELLINGTON

Dear Ryan

Please find attached the submission from the New Zealand Institute of Dental Technologists Inc in regard to the Health Practitioners Competence Act 2003, in accordance with the questionnaire supplied.

Yours sincerely

Craig Metcalfe
President
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Secretariat

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

The general concept of the Act appears to be achieving some of the objectives. However, the manner in which it is being implemented has significant room for improvement. Managing and guiding those charged with the responsibility of creating regulations under the new act needs attention.

2. What evidence supports your answer?

Continuing professional development has generally been a success, with practitioners better focused on maintaining current practice and knowledge. Continuing Professional Development activities has improved the regularity of contact between health professionals in our field.

However, there is considerable concern over unilateral decisions taken by workforce boards and regulatory authorities that affect the profession that place unnecessary and or unjustified restrictions. Some of these decisions have added to costs and consequential restrictions have affected public access to health services.

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.

Consultation processes have been a problem. Differences of interpretation of the act by the regulatory authority, the Ministry of Health, legal and individual opinion have caused conflict. Information regarding decisions and associated discussions haven't been transparent.

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. Interpretations have been varied and ambiguous. Conditions on practice have been poorly enforced or not enforced at all. This has meant some are getting away with not doing CPD properly which is unfair to those who do make the effort to get it right.

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

We are aware that there are occasions where people are operating outside their scope of practice and nothing is done about it. The course of action and expectations that result from this action needs to be clarified.

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?

The definitions listed as restricted need better explanation as they relate to the areas of each health practitioner. It is unclear where practitioners must be restricted in their work and where they should not. The regulatory authority appears to be applying restrictions to areas that are not listed as restricted practice.

We recommend adding Dental Technology to the restricted list. The provisions are not operating effectively because the Council are not focussing properly on this area.

Issues: The Dental Council are preventing us from doing things through Scope of Practice that others who are not registered can do. This is inconsistent application.

Recommendation: The ministry implement and manage meaningful consultation processes.

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, there is insufficient guidance and clarification from the Ministry. Their hands-off approach is unacceptable, in particular with regard to disputes between the industry and regulatory authority.

There is no evidence that enforcement has been made. There are unregistered people working and marketing themselves as a laboratory, calling themselves something like a dental supply company.

There is no clarity regarding any action that can be relied on. More stringent enforcement for non-qualified persons, or unregistered practitioners would provide a more credible environment. It may be more practical if restricted practice applied to both Clinical Dental Technology and Dental Technology.

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

No. The work force board and regulatory authority has persistently ignored the views of the profession. Scopes have been developed in the absence of any evidence that shows they are either necessary or applicable. Scopes have been used to place restrictions and limit the work able to be undertaken. They appear to be used as a means of restricting one professional group over another.

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?

It is odd to have one industry group regulated by another – ie. Dental Technologists regulated by Dentists.

There needs to be thought given to the protection of professional groups as well as the existing public protection. Practice has been restricted beyond previous regulations without evidence or reason.

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?

No it's appalling. Regulatory authorities need to understand what the current industry practice is. They need to listen to and consult with the industry. There are no

mechanisms in place for ensuring scopes of practice are met within the industry. There is a focus on protecting the public at the exclusion of public need – practitioners are being prevented from carrying out normal, accepted practice without any evidence of there being issues with it.

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.**

The prescribed qualifications are too high in relation to public need. The bar is too high, having been raised without consultation and with no consideration for working experience. There is nothing lacking in dental technology training – dentists qualification requirements are being applied to dental technologists and this inappropriate.

The new scope for implants for clinical dental technology is an area in which we have encountered significant problems. This scope is not supported by Clinical Dental Technicians and has been created with an unspecified course that has yet to be offered. It is not possible for Clinical Dental Technicians who have previously provided this service to attend the non-existent course and meet the requirements of the new scope.

Clinical dental technicians have attended the same short courses as dentists to learn this area of work and yet this is not considered an adequate level of training for clinical dental technicians.

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)?**

Continuing professional development appears to be working well and NZIDT supports this, providing ongoing educational opportunities and a means of verification for members. This has yet to be reviewed.

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

Time, experience and regular consultation with the professional body will improve what has already been achieved.

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)?**

The Board has requirements in place, but in practice some of these appear unnecessarily difficult to achieve. Members feel that many of the health and safety standards required are excessive, that there is no programme in place to help achieve these requirements and that there are regional issues that make it too difficult to access some requirements. Much of the paperwork from registration authorities is ambiguous. Employers and employees have separate needs and so require separate paperwork.

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

We are unable to comment on this area yet as these haven't been assessed

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

No opinion

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?**

This is not working. Complaints are not acted on. The review committee makes recommendations but these are not followed through. The approach they take is educational rather than punitive so conditions are not being enforced. This needs to change with a commitment to take action where necessary.

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

Yes it is appropriate.

Changes needed: A peer mediation facility needs to be set up through the industry

Agencies need to be specified before disciplinary action is taken

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?**

With the active involvement on continuing professional development and good communication the profession is able to achieve appropriate standards of practice without the need for additional review processes. Reporting of concerns is an appropriate basis to take competency review action.

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, it is not working, because the outcomes are not enforced and therefore mandatory reporting would not work either. The industry would not be comfortable with mandatory reporting

21. **Is compulsory reporting by employers of possibly unfit practitioners working, on what do you base this opinion?**

Not applicable

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.**

On the whole we believe the registration authority is balanced. The HDC is set up to get a result and tends to lean toward the complainant, though this is becoming more balanced with time

23. **In practice, do competence and recertification programmes differ, are both sets of provisions needed or should changes be made?**

The competency standards have not been developed adequately and this area requires a complete rewrite. The professional body has been presented with competency standards that it has not been included.

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

25. **Are the interests of the public and of practitioners being balanced when dealing with fitness to practise issues? Please explain.**

Cannot answer.

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.**

Not applicable.

27. **Are PCCs being used by the registration authorities you are familiar with, how often and for what reasons?**

No. Excessive standards required are making services inaccessible. Mediation is required to take into account the needs of the public and the ability of the workforce to meet these needs

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?**

At this time there is insufficient information and/or time to assess this, but it should work.

29. **What, if any, additional steps should be taken into account when determining to suspend an annual practising certificate?**

None.

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?**

Benefits are gained experience for those on the tribunal, and a more consistent process.

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)?**

Yes it is working and no need for changes at this time.

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?**

Yes, in consultation with the industry.

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)?**

An equal contribution from the Health Department. As the issue is public protection, it should be paid for in part by taxes.

34. **Are the appeal provisions operating well and what, if any, changes would you recommend?**

There is insufficient evidence and information to make a recommendation.

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?**

The Dental Council is dominated by dentists, creating an imbalance of professional groups. This should be readdressed.

36. **Are the provisions for adding new professions or health services working and what, if any, changes would you make?**

There is insufficient information at this time.

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, they're not working. There are too many dentists and not enough industry people and business representation. This imbalance needs to be readdressed, with individuals being nominated by their own profession. There is also a gender imbalance, more women are needed on the Board.

With appointments made by the MOH, there is no regular rotation process. Individuals may be reappointed after 4yrs – this should change.

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

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

There are poor methods of consultation at present, it is either non-existent or rushed to an unrealistic deadline.

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

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

There is a need for policies and statements to be consistently applied and followed with evidence provided.

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?**

The current powers of the MOH are appropriate, but the MOH appears to be reluctant to use them, to ensure the regulatory authorities are being effective.

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

Remove the ambiguity and implications.

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?**

Not applicable.

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

Excessive standards required are making services inaccessible. Mediation is required to take into account the needs of the public and the ability of the workforce to meet these needs.