

**Submission from Nutrition Services, Auckland City Hospital
Date 19th December 2007**

This department employs 30 dietitians and the submission is based on the experience of DHB dietitians.

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

Yes agree it is mostly achieving its purpose of regulating health professions to protect public safety.

2. What evidence supports your answer?

Dietitians in New Zealand appear to have good understanding of competency requirements through the Dietitians Board review and reporting processes which is a driver of delivery of safe dietetic practice. To date there have been no complaints that have required a HPDT hearing.

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.

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)?

The provisions in Section 7 of the act are not operating in a way that ensures non-qualified persons do not claim or imply to be qualified practitioners. There are instances of unqualified people working in areas covered by the dietitian's scope of practice without definition of appropriate and inappropriate functions. By default they are holding themselves out to be equivalent practitioners and the Act does not protect the public from these individuals. There is a risk, for example, of an under qualified/unregistered practitioner with inadequate or inappropriate tertiary qualifications giving individual advice to a diabetic in a PHO clinic and not recognising a) the macro vascular risk a patient with type 2 diabetes is experiencing b) the risk of hypoglycaemia a patient with blood glucose lowering medication is exposed to when he or she changes their eating pattern or loses weight and this potential overmedication is not recognised.

This is also of concern because it could increase inequalities in health as well as imposing safety and quality issues and "a risk of harm to the public".

The problem arises when the following occur:

- 1) The current shortage of dietitians, particularly Maori and Pacific, results in difficulty filling some positions and, on occasions, someone with lesser qualifications and training being appointed. There is currently no identification of tasks which can appropriately be carried out by individuals with lesser training outside of the restricted activities listed in Section 9. An under qualified person (unregistered) is outside the framework of the Health Professional Competence Assurance Act and consequently there is no assessment of fitness to practice.

The long term solution is dietetic workforce development to ensure adequate number of qualified practitioners.

2) When both the organisation employing an under qualified practitioner and the practitioner his/herself do not acknowledge this skill and qualification deficit, competency and safety issues become paramount. There needs to be a quality assurance process and a clinical safety framework around such employment.

This could be addressed by specifying, for example in the dietitians scope of practice, what aspects of the application of nutrition to health and disease can only be addressed by a practitioner who is a New Zealand registered dietitian.

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

Is working moderately effectively for dietitians (one generalist scope). The Dietitians Board could use Section 8 in a more effective manner (i.e. problems could be solved by Board interpreting Section 8 differently).

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?

Working effectively and is useful (especially the clause that relates to enteral and parenteral feeding)

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?

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

The problems for the Dietitians Board have been in their narrow and restrictive interpretation up until now.

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?

Further progress could be made to remove barriers to registration of appropriately qualified and experienced overseas dietitians

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?

Board should have compulsory reviews of scopes statements and restricted activities.

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.

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)?

Not known

13. What changes, if any, are needed to improve the evidence available to answer the previous question?
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)?
15. Where recertification programmes have not been introduced how do the authorities assure competence, and are there ways that these processes could be improved?
16. What would be the gains or problems associated with requiring all authorities to institute recertification programmes?
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?
18. Is it appropriate that authorities must notify a particular set of agencies: what changes, if any, are needed?
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?
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?
21. Is compulsory reporting by employers of possibly unfit practitioners working, on what do you base this opinion?
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.

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

These programmes differ and both provisions are needed.

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?

Medical practitioners should be obliged to inform the registrar in the case of dietitians (if the dietitian is their patient)

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

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.

QAAs are in operation in ACH and the present arrangement is satisfactory.

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

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?

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

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?

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)?

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 this would be a fairer process that separate hearings which may leave important anomalies and outcomes.

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)?
34. Are the appeal provisions operating well and what, if any, changes would you recommend?
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?
36. Are the provisions for adding new professions or health services working and what, if any, changes would you make?

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?

Inclusion of members of the single dietetic training institution on Dietitians Board will always lead to conflicts of interest.

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?

Slow to move and make changes but some progress. More dietitians are urgently needed – The Dietitians Board should be actively involved in seeking additional educational institutions capable of producing suitable practitioners.

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.

The Dietitians Board manages competency reporting effectively and well. The Board however needs to recognise its responsibility for workforce development through accreditation of educational institutions that provide suitable qualifications.

Workforce development is hindered in NZ through barriers maintained by the Board. To date the Board has refused to prescribe qualifications other than one offered by one tertiary institution Section 12 & 13 of the Act seems to be misunderstood by the Dietitians Board.

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?
43. What changes, if any, do you recommend to matters covered by the provisions of Part 7 of the Act?
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?
45. What, if any, other matters are you aware of in respect of the operation of the Act and what changes do you recommend?