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Submission from the New Zealand Dietetic Association Health Practitioners Competence Assurance Act 2003

The New Zealand Dietetic Association (NZDA) is the professional association of registered dietitians and associated nutritional professionals. With a membership of approximately 550, we represent the largest group of fully trained food and nutrition professionals in New Zealand. This submission is drafted to reflect the comments and opinions of the membership. We trust the comments made in our submission will be given due consideration.

Response to the questions posed in the survey document provided by the Ministry of Health

1. Is the Act achieving its purpose? Please explain.
The New Zealand Dietetic Association (NZDA) would like to see research showing whether the Act is achieving its purpose. In general NZDA believe that the regulation of the profession assists in protecting public safety through the checks and balances that are in place to ensure that dietitians are competent and fit to practise.
2. What evidence supports your answer?
The Dietitians Board have put in place processes which direct dietitians on a broad range of activities that they must undertake to remain competent. This has improved the way that many dietitians undertake continuing competency activities. The processes provide a framework for people who have been out of the workforce to re-enter in a safe and supported manner. The Act deters people from calling themselves a 'dietitian' when not registered and cases where this has occurred have been followed up by the Dietitians Board. These processes have been demonstrated to be effective because there have been no complaints requiring a Health Practitioners Disciplinary Tribunal Hearing.

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)?

NZDA are concerned that this Act does not prevent unregulated health practitioners from freely practising within the scope of practice of a registered practitioner. This is particularly relevant to the dietitian scope of practice, where non-qualified persons are being employed by government bodies to deliver nutrition services and are operating unsafely within the private practice setting. Many of these practitioners do not follow a Code of Ethics, subscribe to a competency program or have appropriate levels of accredited nutrition qualifications. By default they are holding themselves out to be equivalent practitioners and the Act does not protect the public from risk of harm.

This is pertinent in a climate of workforce shortages where there is a shortage of registered dietitians. Unsupervised and non-registered practitioners are being employed to perform activities within the dietitian scope of practice and carry a risk of doing harm to the public. The Dietitians Board do not see that they have a role under the Act to address workforce shortages. This complex problem is likely to be solved by a number of measures involving the Dietitians Board, the profession and the employer e.g. workforce development, review of the dietetic scope of practice, increased employer understanding of the qualifications/supervision required for safe practice and public education about services that can be provided by registered and unregistered practitioners.

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

This is moderately effective but it is timely to review the dietitian scope of practice and how it is interpreted to solve problems experienced in this area.

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?

It needs to be clearer that a health practitioner can only undertake the restricted activity if it is within their scope of practice.

Dietitians have prescribing enteral and parenteral nutrition as a restricted activity under their scope of practice. PHARMAC will not allow dietitians to prescribe for supply. This anomaly needs priority attention as a flow on from the Act. The Act declares that dietitians are competent and fit to carry out the prescriber task but processes within the Ministry of Health and PHARMAC do not entitle the dietitian to provide the health service that the Act says they are competent to do. This measure will provide efficiency gains and should be attended to in the near future.

There may be further restricted activities that need to be developed e.g. Prescribing of Medical Nutrition Therapy.

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

At present the scope of practice is very broad for dietitians and it would be worthwhile looking at developing several more specific ones or altering the way that it is interpreted.

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?

The dietitian scope of practice is too broad. Overseas trained dietitians do not have as much food service in their training and the Dietitians Board deem their training to be insufficient to meet the NZ scope of practice. The recent introduction of conditions is a way around this but these dietitians are often unnecessarily restricted despite being experts overseas. This is one way of addressing workforce requirements without compromising safety.

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?

The Dietitians Board (in consultation with the profession and employers) should be required to review the scopes of practice and to demonstrate that they reflect service need. There is currently a clinical service need but there is no specific scope of practice for this.

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 recent voluntary charter for mutual recognition of dietitians' qualifications signed with the Australians is commendable. The Dietitians Board needs to create a similar process for recognising British, American and South African qualifications. These dietitians are presently being unnecessarily restricted and undue costs are being imposed upon some. Alternative methods of assessment such as analysing portfolios should be investigated. The Dietitians Board is undertaking a review of the registration competency requirements and this will bring about an adjustment in the level of qualifications required to meet service needs. As mentioned above this does not alter the fact that the scope of practice is flawed to start with.

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)?

These appear to be working well for dietitians.

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

It is thought that compulsory supervision would be beneficial especially for the new graduate and those working in small or isolated workplaces.

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)?

A major issue is the time required to produce evidence for the CCP programme resulting in less time for patients. This could be improved if there was credentialing in place so the Board could accept sign off from the Professional Leader.

Compliance costs for part-time practitioners are a deterrent to practice and this is particularly relevant to female workers who tend to take parental leave for extended periods. The costs are a disincentive to return or remain in the workforce and contribute to recruitment and retention problems.

Another issue is that dietitians have the option of calling themselves nutritionists in order to avoid re-certification.

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

It would be good to establish consistency across professions.

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?

Without more resource, it would be difficult to improve this area. The establishment of mandatory supervision or a recommendation for employees to opt into assistance programs may help.

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?

An audit once every 5 years is appropriate plus reminders that other practitioners are required to bring concerns about the competency of another practitioner to the Board.

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?

Don't make it mandatory as it is an ethical obligation.

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

These programs are different 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 who have concerns on medical grounds should be obliged to inform the registrar about a practitioner's inability to perform required functions

25. Are the interests of the public and of practitioners being balanced when dealing with fitness to practise issues? Please explain.
- Yes.
26. Are protected QAAs operating in areas you are familiar with: are they valuable, are there any problems, and are the reporting requirements appropriate, should there be any changes to the QAA arrangements, should QAAs continue? Please explain.
- QAAs shouldn't need to be reported on, just specified
29. What, if any, additional steps should be taken into account when determining to suspend an annual practising certificate?
- None
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 fairer as the team decisions are made.
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?
- There is huge variation in interpretation and implementation of the Act. There may be benefit in developing more consistency and lessening duplication.
36. Are the provisions for adding new professions or health services working and what, if any, changes would you make?
- Additional legislation should be developed for practitioners who do not pose a risk of harm but who provide a health service. It is important for all practitioners to adhere to a Code of Ethics, be audited for competency and have their qualifications assessed. e.g. Nutritionists.
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?
- The provisions do not always work as in the past the Dietitians Board has been composed on members with a conflict of interest e.g. employees of the single dietetic training institution. Elections would be a good option with perhaps a mix of elected and appointed members.
39. How well are authorities carrying out their functions and what changes, if any, do you recommend?
- The Dietitians Board needs to monitor education and training against workforce and workplace requirements. The workplace is in need of an increased number of Maori and Pacific Island dietitians. NZDA have been instructed by our Maori group of dietitians that training remotely in Dunedin (during the undergraduate years) is a barrier for Maori entering the workforce. Being geographically isolated from whanau/family creates a disparity in access to training and is likely to contravene the Dietitians Board Code of Ethics in terms of Treaty obligations. It is therefore recommended that the

Dietitians Board look at accrediting additional educational institutions located closer to areas where there are Maori and Pacific Island populations.

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

The Dietitians Board does not believe that it has a role under the act to address workforce issues. Pressure should be brought upon the Board to assist dietetic workforce development by accrediting suitable qualifications from educational institutions throughout New Zealand. The Board has refused to prescribe qualifications other than those offered by one tertiary institution which contravenes Section 12 & 13 of the Act.

The Dietitians Board should be subject to the Official Information Act to ensure more open and transparent access to information by the profession.

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?

Supervision means the monitoring of, and reporting on, the performance of a health practitioner by a professional peer

This above definition of supervision in the HPCA Act is not appropriate and does not align with commonly accepted definitions in the literature.

Suggested definition: Supervision is a process in which one worker is given the responsibility to work with another in order to meet organisational, professional and personal objectives. The objectives relate to competence, accountable performance, continuing professional development and personal support

Morrison, T. (2001). *Staff supervision in social care*. Brighton: Pavilion.

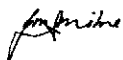
45. What, if any, other matters are you aware of in respect of the operation of the Act and what changes do you recommend?

The need for compliance reduces patient contact time.

The Act does not fit well with the Careers Framework as it keeps professions in silos.

The Ministry needs to ensure that DHB's/PHO's are required to employ appropriate practitioners to carry out tasks that carry a safety risk to the public.

Yours sincerely



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