

NATIONAL REGISTRATION AND ACCREDITATION SCHEME FOR THE HEALTH PROFESSIONS

Proposed Registration Arrangements

Submission from Optometrists and Dispensing Opticians Board (NZ)

October 2008

Introduction

Under New Zealand legislation (the Health Practitioners Competence Assurance Act 2003 (HPCA)) the Optometrists and Dispensing Opticians Board of New Zealand (the Board) is the responsible authority in New Zealand for the registration and competence assurance of optometrists and dispensing opticians. Under section 158 of the HPCA the Trans Tasman Mutual Recognition Act 1997 (TTMR) prevails over the HPCA. In practice this means that the Board is required to register any optometrist or dispensing optician registered in Australia. The Board therefore has an interest in ensuring that the quality of registration and competence assurance provisions in the proposed legislation is at least equivalent to New Zealand requirements.

Our submissions follow. We have only provided comment on those sections that we consider may have an impact on our obligations, or where we believe our experience in implementing similar requirements under the HPCA may assist in the development of this piece of legislation.

Proposal 4.2.1

The Board agrees that the proposed requirements outlined in a – g of this section are appropriate, but would strongly support the addition of evidence of good character and English language proficiency, which are requirements for registration in New Zealand. Because of the TTMR, New Zealand and Australian registering authorities need to be satisfied that each others' processes for registration of health practitioners are robust and equivalent.

Proposal 4.3.1

The Board views the suggestion that a requirement for annual declarations relating to criminal convictions would be overly onerous on both the registrant and the national boards, particularly given that the majority of registrants would be unlikely to have anything to declare.

An alternative option would be to incorporate legislation requiring the Registrars of the Courts to notify the relevant national board when a registrant is convicted of a crime (refer s67 HPCA).

Proposal 5.1

The Board agrees that the proposed defined qualifications are appropriate, but that it would be beneficial to incorporate specific provision to recognise the equivalence of registration authorities such as New Zealand, and the power of the TTMR (refer s 12(2)(d) HPCA).

Proposal 6.2.1

The Board notes the suggestion under a(iv) of this proposal is that the community member on the National Board is not and never has been a registered practitioner in that profession. The Board would suggest that this proposal is amended to exclude any person who is a registered health practitioner. The Board's view is that the community member's role is to provide a consumer's perspective and cannot do this if he or she has a competing interest as a health practitioner.

Proposal 6.4.1

The Board agrees that the proposed grounds for refusing to grant registration are appropriate. Under section h, the Board proposes that the wording be amended to "the applicant's English language proficiency is not considered sufficient by the board for the applicant to practise in the relevant profession or that the applicant does not satisfy the board that he or she is able to communicate effectively for the purposes of practising his or her profession." (Refer s 16(a) HPCA). This provision would allow national boards to refuse to grant registration where the board was not satisfied of the quality of the applicant's communications skills, regardless of their level of proficiency in English. Effective communication is a cornerstone of the provision of safe health services.

Proposal 7.1

The Board has concern about section b of this proposal, where applicants who do not qualify for general registration may be granted to allow an applicant to work in an area of unmet need. The Board considers this approach has huge implications for the community receiving that service. The Board understands that this provision may be utilised for geographically isolated areas.

While the Board appreciates that national boards must have an interest in workforce matters, allowing a practitioner with insufficient credentials to obtain full registration to practise in isolation would be direct contravention of the purpose of the proposed legislation, which is to protect public health and safety. Research indicates that professional isolation is a key indicator of poor performance. Combining professional isolation with lack of appropriate qualification presents a huge risk to the public.

Proposal 7.4

The Board considers it inappropriate for national boards to register students. Where a student is not performing competently, or acts inappropriately, this should be dealt with by the training institution via a code of conduct or similar. If the training institution is not satisfied of the student's conduct or competence, that training institution should not allow the student to pass the course. The student would then not be eligible for registration with the national board.

Proposal 8.4.1

The Board agrees that it is important to protect the practice of optometry in order to ensure public safety. Under the HPCA, the prescribing of optical appliances is one of only six restricted activities across all regulated health professions. The specific restriction in New Zealand is currently framed as follows:

“Restricted Activity 4: Prescribing of an ophthalmic appliance, optical appliance or ophthalmic medical device intended for remedial or cosmetic purposes or for the correction of a defect of sight. This restriction is intended to address the significant risk of asymptomatic eye disease associated with the dispensing of an ophthalmic appliance, optical appliance or ophthalmic medical device, without the first step of a diagnosis by a registered health practitioner.”

The Board would recommend that the definition of optical appliance should be framed broadly to include all contact lenses including whether for therapeutic or cosmetic purposes.

Proposal 8.4.2

The Board's view is that, as it is not proposed that orthoptists be regulated, orthoptists should not be authorised to prescribe. Prescribing an optical appliance in New Zealand is considered to carry considerable risk of harm if a diagnosis is not first made by an appropriately qualified registered health practitioner.

Proposal 9.2.1

The Board considers that it is imperative the proposed legislation includes requirements for practitioners to demonstrate competence at annual renewal of registration. Refer to sections 27-29 HPCA.

Proposal 9.4.3

The Board notes under section a of this proposal that a person must report to the relevant national board within 30 days if charged with or convicted/subject of a finding of guilt for an offence punishable by 12 months imprisonment or more. The legislation will need to clearly define the point

in proceedings when the report must be made – either when charged, or when convicted – there should not be an option to report at one or other of these points. The Board would also consider 30 days to be a longer than necessary timeframe within which to make the report. Ten working days should be more than sufficient, bearing in mind that the relevant board's function, once this information has been received, is to determine whether any immediate measures should be put in place to protect public health and safety.

Proposal 10

The Board considers that if a practitioner holds qualifications in excess of the requirements for registration (for example, in optometry, practitioners who have qualified to prescribe therapeutic pharmaceutical agents) those practitioners must have additional continuing competence requirements imposed on them if their additional qualification is to be publicly endorsed by the national board. The relevant board cannot, in good faith, endorse a practitioner's skills for an unlimited period without being satisfied that the practitioner has continued to maintain their competence in that area.

Proposals 10.2.1 and 10.3

Please note our comments above in Proposal 10 regarding therapeutically endorsed optometrists. It may not necessarily need to be legislated, but systems must be in place to monitor prescribing practices, including published guidelines from the relevant national boards. Where inappropriate prescribing is identified, this can be dealt with under the competence or discipline provisions of the legislation.

Training for therapeutic endorsement in New Zealand is now part of undergraduate training, but can also be undertaken at post-graduate level for practitioners who obtained their undergraduate qualification before therapeutics became part of optometry training.

Proposal 11.4.1

Recency of practice is an important consideration in determining whether a practitioner has continued to maintain the required standard of competence. Under s 27 of the HPCA, if a practitioner has been out of practice for three years or more, his/her application for renewal of registration must be considered by the Board. Many New Zealand regulatory authorities have developed policies under which they consider such applications, with requirements for proof of competence increasing with the length of time the practitioner has been out of practice.

Other comments

The Board would urge the Australian Health Ministers' Advisory Council to ensure that the legislation does not conflict with the requirements of the TTMR.

We are very comfortable that the registration provisions of the HPCA are appropriate for assisting the Board to ensure that optometrists and dispensing opticians are competent to practise – both at initial registration and at renewal of registration. We assume that you have already reviewed the HPCA, but suggest that further consideration of its content be undertaken prior to finalising this legislation.

Thank you for the opportunity to comment on this consultation paper. Please direct any queries about the content of this submission to the Board's Registrar, Rachael Thorn, at rachael.thorn@oanddboard.org.nz.