DCNZ*news*

The Dental Council of New Zealand • Te Kaunihera Tiaki Niho o Aotearoa

DCNZ APPOINTS COMPETENCY ADVISER

Dexter Bambery has been appointed to the new position of Competence Adviser, which has been created in response to the requirements of the HPCA Bill. Widely known and respected in the profession, Dexter is resigning from his current position as Chair of the Dentists Disciplinary Tribunal. Here we ask him some questions about how he views his new role and about the impact the new competency regime is likely to have on dentists.

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Competency assurance is the cornerstone of the HPCA Bill, which provides for mechanisms to ensure that dentists remain competent throughout their working lives. Under the proposed framework dentists, will be required to:

- Attest to their continuing competence when applying for their APCs, for example by declaring that they have met peer contact requirements and have complied with the joint NZDA/DCNZ codes of practice.
- Maintain a personal CPD portfolio which documents peer contact and participation in CPD activities, and be prepared to submit this for audit by DCNZ
- Be prepared for the possibility of a random audit by DCNZ regarding their compliance with the joint codes of practice.
- Be subject to a competence assessment review and remediation/retraining where issues of public safety arise.

The immediate role of the Dental Advisor will be to assist DCNZ in meeting its statutory obligations under the HPCA, and to provide it with advice and input into the development of policies and procedures aimed at ensuring that dentists are competent to practise. The position has been created on the basis of a three-year contract with the time commitment in the first year being expected to be around one day a week.

Congratulations on your appointment to the position of Competency Advisor. What attracted you to this role, and what will be your immediate priorities when you start work ?

Having served on the Dental Disciplinary Tribunal for the last eight years I felt I needed a new challenge and that it was time to move on. I certainly enjoyed my time on the Tribunal and I believe the experience I gained there - and earlier with the Dental Association's Peer Review system - will be invaluable in my new position. However, with the Tribunal it is frustrating always having to deal at the stage of the process where things have

gone seriously wrong. In this new role, by contrast, the emphasis will be on trying to rectify competency problems at an early stage.

My number one priority will be to consult. The success of the whole project will ultimately depend on the support and involvement of the profession, so it will be important for me to get general acceptance from all concerned. Accordingly, I will need to consult as widely as I can - in particular with the NZDA but also with specialist groups. Another priority will be to look at what's been happening overseas. Some countries such as the UK have had to address similar issues and I am keen to learn from their experience. I would also like to discuss these issues with our School of Dentistry and the Royal Colleges.

Some might argue that current registration standards in New Zealand are at a high enough level already. Why do we need the HPCA?

It is true that New Zealand has a perfectly adequate standard of registration. However, it is based on the assumption that dentists, after graduation, are fit for

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registration indefinitely unless there is adverse evidence to the contrary. While this system may have worked in the past, it is no longer appropriate for the 21st century. An acceleration in the growth of scientific knowledge, dental technology and treatment options, along with fundamental changes in the dentist-patient relationship mean that mechanisms to ensure the continuing competence of dentists are more important than ever before. Our current system is inadequate to identify and rectify problems at an early stage.

What is the new competency framework likely to entail?

The actual details have yet to be elaborated - much of this work will take place in the context of the HPCA implementation working party, which is being set up with NZDA, specialist, Faculty, public and DCNZ representation. However, there are two broad strands to the competency assurance framework. On the one hand there will be ongoing maintenance of standards achieved through recertification requirements for an APC and on the other there will be competence reviews of those dentists whose competency has been called into question.

So what will be the consequences for dentists whose competency is called into question? Is there any provision for resolving disputes between dentists and assessors?

If the system is going to work, it needs to have the support of the profession, and we will have to ensure that there are in-built checks and balances. We must have a mechanism to deal fairly with any disputes between dentists and assessors. The approach I shall be taking is to promote the development of a framework that is supportive and educational rather than punitive.

Introducing CPD and other requirements for issue of APC and competency review will presumably come at some cost? Will this impact on APC fees?

I believe that this change will be fully supported by the entire profession, and that dentists will on the whole accept that the move towards a competency assurance regime will entail some costs. Moreover, the existence of such a framework will enable problems to be tackled at an early stage, rather than at the point requiring disciplinary action, and this could offset some of the increase in costs. On the other hand it is unfortunate that the HPCA Bill is proposing a multi-disciplinary tribunal. This is expected to double the costs of the current DDT, an institution which has worked very well. The Dental Council has lobbied hard against the format of the new tribunal, but ultimately this is going to be a decision for the politicians.

When can we expect the changes to take place?

The new Act is not expected to be passed until later this year, and will not come into force for another 12 months after that. So we will be working towards having the basic structures in place by then. Beyond this, however, I envisage that the whole competency assurance framework will evolve on an ongoing basis.

The HPCA will require DCNZ to delineate scopes of practice and establish the competencies to be registered in each of them. What form will these scopes of practice take?

The precise form that scopes of practice will take will be determined by the HPCA implementation working party. However, the approach favoured by the Dental Council and myself is for broad, enabling scopes of practice for general dental practice, advanced areas of practice and for specialist practice.

Finally, what does the term "competency' mean to you.

In my view competency involves more than just technical ability. Competency means not just doing things in a competent fashion. It includes recognising when things go wrong - as they are bound to do from time to time, communicating this to the patient and then ensuring that things are put right. Competence is part of the broader concept of fitness to practice, embracing areas such as dentists' health and professional conduct.

Nor should we lose sight of the fact that the competency of dentists reflects not just their training and professional development, but also the broader environment in which they operate. For example, factors such as whether dentists operate in isolation or in group practice, whether they are employed or run their own practice, will all impact on their competency and performance. I would like to see us taking all of these issues into consideration.

(Dexter will assume his new role as Competency Adviser on 1 June 2003)

NEW COUNCIL MEMBER - INTRODUCING

Dr Robert Love, Head of the Department of Stomatology, University of Otago, has been appointed as a new member of the Council. He replaces Professor Peter Innes, Dean of the Faculty of Dentistry, who stepped down as a Council member, having served the maximum nine years. DCNZ would like to thank Peter for his input over the period and wishes him all the best for the future.

Robert was appointed by the Minister of Health in accordance with s 71 of the Dental Act 1988 which stipulates that the Council membership shall include one person involved in teaching dentistry. DCNZ welcomes this appointment. Robert already serves

"DENTAL PRACTICE IN NEW ZEALAND" - NOW ON THE WEB!

The reference guide "Dental Practice in New Zealand" can now be accessed on the DCNZ website. Though written primarily with the requirements of overseas dentists in mind, it will also be of considerable value to practising dentists more generally.

There is certainly no shortage of information and guidance on practising dentistry in New Zealand. However, the sheer volume of information and multiplicity of sources can at times seem overwhelming, with dentists scarcely able to keep track of all the compliance and reporting requirements, guidelines, codes of practice, etc. As a result, there would appear to be a "gap in the market" for clear, concise and practical information contained in a single-source reference guide.

Ironically, just such a guide has been available for some years in the form of "Dental Practice in New Zealand". While specifically aimed at overseas applicants preparing for their New Zealand Conditions of Practice (NZCOP) examination, Council has recognised that the publication could be an excellent resource for all dentists in New Zealand. It has therefore decided to publish it on its website (www.dcnz.org.nz).

The guide is split into five sections providing basic information on:

- Practising dentistry in New Zealand- contains details on setting up a practice, the duties and responsibilities of dentists, rights of patients and appropriate standards of behaviour
- Treating patients - this section covers areas such as cross-infection control, dealing with transmissible diseases, referral and advanced areas of dentistry, with reference to relevant legislation and codes of practice
- Running a practice - sets out responsibilities of dentists in areas such as keeping accurate records, radiation protection legislation, the Privacy Act and the Health Information Privacy Code, dealing with complaints, occupational safety and health, dentists' responsibilities under Dental Benefit services and ACC.
- New Zealand practice environment - provides details on the New Zealand dental workforce, the Dental Council of New Zealand and biculturalism.
- Support network - summarises resources available to dentists to help with professional and personal problems, eg NZDA, Doctors Health Advisory Service (DHAS) and the DCNZ Health Committee.

The online version of Dental Practice in New Zealand has been designed with a view to maximising ease of access and user-friendliness. However, dentists wanting a hardcopy version may obtain one by contacting the DCNZ secretariat (price $30.00 for orders from within New Zealand, $60 overseas).

ROBERT LOVE

on Council's Specialist Registration Advisory Committee, where his experience as a specialist dentist (he is an endodontist) and his in-depth knowledge of specialist training programmes is highly valued.

Robert is responsible for the final year BDS general dental practice course and teaches endodontics in the MDS Endodontics programme and other MDS and Postgraduate Diploma in Clinical Dentistry courses. His qualifications include a PhD in Molecular Oral Microbiology, an MDS in Endodontics and an FRACDS. Robert also has an impressive publication and research record, with research expertise extending from clinical endodontics to molecular microbiology.

"I am delighted with this appointment" said Robert. "The new HPCA Act will have major implications for the practice of dentistry in New Zealand and I am looking forward to assisting Council in meeting this challenge. One of my priorities will be to ensure that standards of dentistry training in New Zealand, whether provided by the Faculty or other bodies, remain at a consistently world-class level, and that overseas dentists applying for registration in New Zealand can demonstrate that their training is equivalent to these standards."

THE HPCA BILL - AN UPDATE FROM THE CHAIR

The passage of the HPCA through Parliament has reached an advanced stage, with the Health Select Committee having finished hearing submissions. In this column DCNZ Chair, Brent Stanley, provides an update on Council's involvement in the submission process and on it preparations for the Bill's implementation.

Thankfully, months of consultations with Ministry officials, the dental profession, health authorities and politicians over the HPCA Bill are now behind us. The dramatic differences between the first draft of the Bill, which appeared 18 months ago, and the current version reflect to a significant degree the sustained efforts of the Dental Council.

In November last year the Health Select Committee received a detailed written submission from the Dental Council, which can be viewed on our website: www.dcnz.org.nz. This has been supported by an oral submission to the Select Committee by the Deputy-Chair, the Registrar and myself on 5 March, the last day of the hearings.

Concerns

Council's presentation focused on those aspects of the Bill still causing us major concerns including:

- Section 9 of the HPCA, which gives the Minister of Health the discretion to declare restricted activities. Council is concerned about the possible risk to the public from unregistered practitioners if the declaration of a restricted activities list relies solely on the Minister's discretion. Instead, Council wants a restricted activities list to be promulgated at the same time as the Bill.
- The proposed multi disciplinary tribunal, which is expected to double our current disciplinary costs and be extremely difficult to govern and manage.
- Technical anomalies in the proposed structure of the new Combined Dental Council.
- The dramatic increase in compliance costs for practitioners.
- The removal of the current requirement under the Dental Act for a certain proportion of Council members to be elected.

Challenge

Having concluded the process of hearing submissions the Select Committee is expected to report back by around May this year. The Bill could receive its second reading late June or July and be passed later in the year. The Act will not actually come into force until 12 months after the date of enactment, so we are probably looking at some time in the second half of 2004.

Once in force the HPCA Act will shape the environment for dentistry for at least the next decade. Accordingly, it presents a major challenge for Council, with considerable demands on its time and resources posed by:

- new registration processes
- implementation of a new competency framework and re-certification requirements
- changes to the disciplinary tribunal structure
- the requirement to define scopes of practice for the various dental provider groups
- the need to establish a Combined Dental Council embracing dentists, therapists, clinical dental technicians, dental technicians and dental hygienists.

Timeline

Our goal will be to achieve a workable system with a realistic administrative and staffing structure and budget. The Council has engaged in extensive forward planning and prepared a detailed timeline of actions for the period extending through to August 2004 and beyond. We are conscious of the need to make the new environment as workable as possible and we will consult widely with NZDA and other professional groups to try and minimise the bureaucratic compliance requirements for practising dentists and specialists.

Practitioners should not be intimidated by the new legislation. Council's approach to the new environment will be to emphasise the cooperative, consultative and educative aspects and to promote high standards of competency and professional conduct. It is unfortunate that less positive facets, such as complaints investigation, competency review and discipline, gain undue prominence on occasion. These however, will continue to be relevant only in the small number of cases where public safety becomes an issue.

Let's keep our perspective.
Brent Stanley.

"LOUNGE DENTIST" CONVICTED

A man has been convicted for illegal practice of dentistry in the "lounge" of his home. This follows an investigation by the Ministry of Health which since July 2001 had followed up on reports of a person practising dentistry on members of the Tongan community in the Mangere area of South Auckland.

The reports were received primarily from dentists in the South Auckland area who were having to carry out remedial dental work on patients previously seen by the person concerned. It was known that this person frequently travelled to Auckland from Tonga to offer these dental services.

In July 2002 a local woman went to see the person who fitted her tooth with a gold inlay. The defendant first administered an injection of Xylocaine to her mouth and then drilled her tooth to prepare it for the inlay. He charged her $80 for this, and told her if she had brought her own gold it would be $60.

Shortly after, the gold inlay became loose, so the woman returned to see the defendant, who refitted the inlay without charge. A month or two later the gold inlay came off again but when she returned to see the defendant on this occasion she learned he had returned to Tonga. She then went to a local registered dentist who repaired the tooth.

Police Search

As a result of information received, on 30 October 2002 Police and a Ministry of Health Enforcement Officer executed a search warrant at the defendant's residential address. The defendant was present and the officers found a room set up for the practice of dentistry with a dental drill, dental tools and equipment and material used in the manufacture of dental prostheses, crowns, inlays and partial plates.

The defendant admitted practising dentistry in his house for several months, knowing that it was unlawful for him to practise dentistry and to possess or otherwise use the prescription medicine (Xylocaine) in New Zealand.

He stated that he only made or repaired partial plates and dentures and he denied that he did any gold crown work. He stated that he did not charge for the services he performed, but did it as a favour to friends, although he did sometimes accept gifts of money made in gratitude.

On the wall in the area used for dentistry officers found a notice listing the price of services offered. The defendant explained the price list displayed on the wall as an exercise carried out by his sister-in law-when learning to use a computer.

The defendant stated that he used to be a dental hygienist or dental therapist in Tonga, but was not currently registered to practice in Tonga.

When asked how he sterilised the equipment used for drilling and injecting patients, he stated that it was sterilised in Tonga before he came. There were no facilities in the premises for basic sanitary procedures or for sterilising equipment.

The premises were untidy and grossly insanitary.

Court Hearing

The defendant appeared before the Manukau District Court on 16 December 2002. He entered pleas of guilty to the charges levelled at him. The Judge endorsed the Ministry's view that the offending was serious given the obvious risks to public health. He found that the defendant had practised dentistry without reasonable excuse when unregistered (s 4(2) Dental Act 1988, and in possessing and administering a prescription medicine had also infringed the Medicines Act 1981. The Judge sentenced the defendant to fines totalling $2,500 and court costs and solicitor's fees totalling $990.00.

Timely Reminder

With the Health Practitioners Competency Assurance (HPCA) Bill proceeding through Parliament, this case is a timely reminder of the risks to the public posed by the unlawful practice of dentistry. The Bill, as currently drafted, does not prevent unregistered persons from carrying out health services as long as they do not hold themselves out as being registered to provide those services. So someone with no skill or deficient skills could practise dentistry, and cause a lot of harm in doing so, provided they do not call themselves a dentist

The Dental Council has lobbied politicians and others extensively on this issue. Fortunately, it has now been acknowledged that some health services, by their nature and their risk of harm, should only be performed by registered and qualified persons. Section 9 of the Bill empowers the Minister of Health to declare such services as restricted activities. DCNZ has campaigned vigorously for the inclusion of most of dentistry in a list of restricted activities.

GUIDANCE FOR DENTISTS EMPLOYING DENTAL HYGIENISTS AND OTHER WORKERS OPERATING UNDER SECTION 11 OF THE DENTAL ACT

The Dental Act 1988 provides that no one can practise dentistry unless they are registered as a dentist. The Act does, however, provide some exemptions to allow for example dental students to practise dentistry during their training. Dental hygienists and others (such as orthodontic auxiliaries and some dental assistants) operate under the exemption provisions of Section 11 of the Dental Act which states that -

"Nothing in Section 4 [which restricts the practise of dentistry to registered persons] prevents any persons from-

- removing deposits from teeth, or
- applying materials to teeth for the purpose of preventing diseases, or
- giving advice on oral health, or
- carrying out any other similar work

under the direction of a dentist who is present on the premises at which the work is carried out" - the dentist must be present on the premises at all times.

Several recent queries to the Dental Council have highlighted the desirability of providing guidance on what Section 11 workers currently can and cannot do. DCNZ takes the view that the following procedures are within the scope of Section 11 workers:

- application of fluoride or antimicrobial agents as a preventive measure
- dental radiographs (but only with an exemption from the Medical RadiationTechnology Board)
- removal of hard and soft deposits from teeth, cleansing non-carious fissures, etching and placing sealant
- oral health promotion, education and instruction
- taking impressions for study models.
- taking impressions constructing and fitting mouthguards or bleaching trays
- various miscellaneous procedures such as some cariogenicity testing

The following activities are outside the scope of a Section 11 worker:

- any oral procedure that involves cutting or removal of hard or soft tissue
- administration of local anaesthetic
- placing fissure sealant where caries is involved
- widening or opening fissures, removing enamel and carious dentine with burs, diamonds, air abrasion or the use of ART techniques
- working without a dentist on the premises
- treating patients who are under nitrous oxide sedation
- any other invasive procedures.

Under the proposed HPCA Act, dental hygienists will be registered and come under the ambit of a combined Dental Council. Rather than working under an exemption regime, their operation will be subject to registration and the allocation of a designated scope of practice. In the case of other Section 11 workers the requirements for registration and the content of the scope of practice will be elaborated over the next year by a joint Dental Council/New Zealand Dental Hygienists Association working party.