



MAJOR HEALTH REFORM LAW ENACTED

The Health Practitioners Competency Assurance (HPCA) Bill received Royal Assent on 18 September 2003 and will come into force 12 months after this date. The new legislation will radically overhaul the regulatory framework for health professionals. Here we focus on what the new Act will mean in practical terms for dentists.

The HPCA Act provides a framework for the regulation of all health practitioners where there is a risk to the public. It will replace 11 occupational regulation statutes, such as the Dental Act and Medical Practitioners Act with a unified regulatory framework covering some 88,000 professionals across 20 professions. While the regulated health professions will continue to govern themselves, the HPCA lays out consistent rules by which all professions must provide safe and competent service to the public.

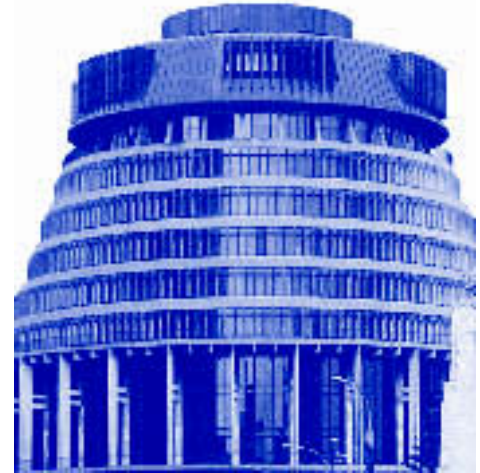
The principal purpose of the HPCA is to protect the health and safety of the public by ensuring that health practitioners remain fit and competent to practise within a defined 'scope of practice' throughout their working lives. This emphasis on ongoing competence assurance contrasts with the previous framework whereby it was assumed that practitioners once registered were fit for registration indefinitely unless there was adverse evidence to the contrary.

While the HPCA has far-reaching implications for all these health professions, in dentistry the reforms go even further with the Act providing for the dissolution of the existing Dental Council and the establishment of a new combined Dental Council covering dentists, dental technicians, dental hygienists and dental therapists.

Combined Dental Council

The Minister of Health will appoint the new Dental Council by 18 December 2003. A memorandum of understanding has been negotiated between the DCNZ and the Dental Technicians Board, and (in the absence of a regulatory body for therapy and hygiene) the Therapists and the Hygienist Associations setting out the agreements they have reached as to how the new Council will operate.

As has been signalled for three years in DCNZ publications and in presentations to local NZDA branches, it is being proposed to the Minister of Health that the new Dental Council be comprised of: five dentists, two therapists, one hygienist, one dental technician, one clinical dental technician, three lay members and a person involved in teaching



dentistry. It is envisaged that the new Council will have a uniformity and consistency role and will delegate its regulatory functions to separate boards specific to each workforce.

THE HPCA - WHAT DOES IT MEAN?

- One Act to cover all the registered health professions
- A focus on maintaining standards and improving competence, not discipline
- A more flexible approach to registration with a scopes approach and the ability to place conditions on practice
- A team approach to dentistry with a new Dental Council covering dentistry, dental therapy, dental hygiene and dental technology
- Ongoing professional development, peer contact, recency of practice and codes of practice requirements for the issue of an annual practising certificate
- Dental therapists in private practice providing care to publicly funded patients
- Dental hygienists being able to practise when the dentist is not present on the premises
- Early intervention when verifiable concerns about competence have been raised
- Educational programmes not discipline when competence has been found wanting

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THE HPCA – SOME QUESTIONS AND ANSWERS

What are scopes of practice?

The current categories of temporary, provisional, specialist and general registration will disappear under the HPCA. Instead the Council must develop scopes of practice to describe the contents of the dental profession.

The Council's preliminary thinking has been that the approach to scopes of practice should be broadbrush and enabling. A scope of General Dental Practice is therefore being developed based on the current Dental Act definition of the practice of dentistry. Similarly it is being proposed that Specialist scopes of practice be developed based on the current definitions of the specialist branches of dentistry.

It is likely that dentists will be able to be registered in the general scope or a specialist scope, or both. Practitioners seeking to be registered in more than one scope would need to meet any initial and ongoing competency requirements in both scopes of practice.

How will the competence of practitioners be assured?

The mechanisms for ensuring the competence of practitioners will be linked to the issue of an annual practising certificate. The HPCA stipulates that the Dental Council must not issue an APC unless it is satisfied that the applicant meets the required standard of competence.

Under the proposed competency framework dentists who apply for an APC will be required to have met the following minimum APC recertification requirements:

- Maintained competence and fitness to practise. Dentists who have not practised for three or more years may be required to undertake a refresher course or specific training before returning to practise
- Complied with joint NZDA/DCNZ codes of practice
- Undertaken continuing professional development relevant to their scope of practice
- Maintained regular peer contact

How and when will I have to meet these APC recertification requirements

It is anticipated that specialist and other groups will develop recertification programmes for their members which will then be submitted to the Council for recognition and approval. The Council's HPCA Implementation Working

Party is currently consulting with the NZDA and specialist groups regarding the development of these programmes. Those not belonging to an approved programme will be required to satisfy the Council's minimum recertification requirements and the Council would monitor their compliance.

Individual recertification programmes may have different requirements. However, for individuals who do not belong to an approved recertification programme:

- Compliance with the joint NZDA/DCNZ codes of practice will be required for the issue of an APC in May 2005
- Compliance with peer contact requirements will be required for the issue of an APC in May 2006
- Compliance with CPD requirements (likely to be 80 hours verifiable and 80 hours non-verifiable over a four-year period) will be required for the issue of an APC in May 2009.

Why is peer contact required and what will it involve?

A major objective of CPD activity is to ensure that no dentist practises in isolation and that dentists maintain regular professional contact. One of the components of the recertification provisions will therefore be a requirement for peer contact activities.

Any approved recertification programme will need to include regular peer contact. Dentists who do not belong to an approved recertification programme will be able to meet the peer contact requirements through participation in an NZDA-accredited or DCNZ-approved peer group. Details, such as size and frequency of meetings will be developed by the Dental Council with input from the profession and the Faculty of Dentistry.

What happens if concerns are raised about my competence?

The HPCA Act also allows the Council to review a practitioner's competence at any time. Competency review will be separate from the complaints and discipline process.

The HPCA Implementation Working Party is currently consulting on this area, but it is envisaged that the Council will only review a dentist's competence in response to genuine and verifiable concerns raising issues of public safety.

If a competency review reveals that the practitioner does not meet the required standard of competence, an educational programme may be instituted to address any weaknesses in the dentist's practice. If a dentist fails to satisfy the requirements of any educational programme, the Council will be able to:

- Alter the practitioner's scope of practice either by imposing limitations on the services he or she can perform or including conditions
- Suspend the practitioner

The fact that a dentist has undergone a competency review or educational programme will not be public unless these lead to restrictions, conditions or suspension of his or her practice.

I thought this was supposed to be about competence assurance not discipline . . .

Such measures would be a last resort, and DCNZ envisages that the vast majority of dentists would not be affected. However, if a competency assurance programme is to be effective there has to be a mechanism by which concerns in competency can be addressed. Moreover, the aim of a competency assurance programme is to address competency concerns as soon as they are identified rather than at the point where public safety has already been compromised.

How will the Act affect my relationship with other dental provider groups?

Under the HPCA dental therapists and dental hygienists will be registered and come under the ambit of the new Dental Council.

In the case of dental therapists it is also being proposed that the current employment restrictions will be removed and that therapists will be responsible for their own professional practice (within their scope of practice). Dental therapists will be able to work in the private sector but the Minister of Health has stated that their scope of practice should be limited to providing care to publicly funded patients. In addition, a named dentist will need to be designated for each dental therapist to provide clinical guidance.

In the case of dental hygienists their working relationship with dentists is currently the subject of ongoing consultations between DCNZ, the Hygienists Association and NZDA.

DENTISTS DISCIPLINARY TRIBUNAL APPOINTMENTS

Nelson-based dentist Phil Coote has been elected by the Tribunal to the role of Chair while Moana Avia, Catherine Lloyd and Warwick Ross have been appointed as new members.

The independent Dentists Disciplinary Tribunal hears referrals of court convictions, charges of professional misconduct and charges of acts or omissions detrimental to the welfare of patients or others brought against dentists and has powers to discipline those dentists who fall short of the high standards expected of them.

Appointments are for three years and each year the Tribunal elects one of its members as Chair.

Phil Coote is now in his third three-year term having taken over the role of Chair from



Phil Coote

Dexter Bambery. He has been in a group general practice in Nelson since 1963 apart from three working visits to the UK, which included some part time postgraduate study. He has an interest in history which has spawned two publications, one being the History of Dentistry in Nelson.

Reflecting on his time on the DDT Phil says "I have found the hearings to be both interesting and challenging. It is pleasing to note the fall-off in the number of cases coming before the Tribunal, due in

no small part to the educational role played by the Medical Protection Society in its presentations to the profession. The Tribunal has also tried to introduce an educative slant into the application of penalties when charges before it have been proven."

Phil Coote says he is relishing the challenge of his new position.

Newcomers

Existing DDT lay member Wendy Davis has been appointed for another term on the Tribunal. Joining Phil and Wendy are newcomers Cathrine Lloyd, Warwick Ross and lay member Moana Avia. Wellington-based dentist Cathrine Lloyd has held long-standing service on various dentistry-related committees and working parties, including peer review and complaints assessment committees. Warwick Ross runs a Dunedin-based city and branch practice, and for the last ten years has served as NZDA consumer liaison officer. He has also been a member of the NZDA executive and has taught at the Dental School. Moana Avia is a referee on the Disputes Tribunal of the Auckland District Court. She has worked as a solicitor for a leading law firm, is a tutor at the Auckland School of Law and has an impressive track record of public service at both national and local government levels.

New Tribunal

When the HPCA Act comes into force in September 2004 the Dentists Disciplinary Tribunal, along with the separate tribunals for the other registered health professions, will be replaced by a single Health Practitioners Disciplinary Tribunal.

The Dental Council would like to pay tribute to Waana Davis, Chris Caswell and Dexter Bambery who stepped down from the Tribunal earlier this year. Their dedication has been a major factor in the effectiveness with which the Tribunal has performed its role over recent years.

Current membership of the DDT is as follows:

Dr Phillip Coote, Chair	Dentist
Dr Warwick Ross	Dentist
Dr Cathrine Lloyd	Dentist
Ms Moana Avia	Lay member
Ms Wendy Davis	Lay member

DCNZ INVITES CONSULTATION ON HPCA IMPLEMENTATION

The HPCA takes a broadbrush, enabling approach leaving the detailed implementation to the regulatory authorities. Accordingly, Council has recently established an HPCA Implementation Working Party charged with examining and making recommendations to Council. However, neither the Council nor the working party can undertake this work in isolation. DCNZ is therefore inviting feedback to a recently published consultation document

The full consultation document was sent to key 'stakeholders' in August 2003. These include NZDA, all specialist groups and the Ministry of Health. The Dental Council is, however, very interested in receiving feedback from individuals and would urge those who wish to comment on the proposals to do so by Friday 14 November.

The full consultation document can be viewed on our website www.dcnz.org.nz under the 'What's New?' link. However the key issues are:

- How will dental scopes of practice be defined under the HPCA (given that the legislation will not specify categories of registration)?
- What New Zealand and overseas qualifications should the Council approve for registration in each scope of practice?
- To what extent and under what circumstances should the Council exercise its discretion to register

applicants who do not possess an approved qualification?

- To what extent and under what circumstances should the Council exercise its discretion to register applicants subject to conditions?
- What should the initial and ongoing competency requirements for each scope of practice be?
- What role should organisations other than the Council have in developing and running, for their members, recertification programmes for the issue of an annual practising certificate?
- What role should organisations other than the Council have in competency review and retraining for individuals whose competence has been called into question and found wanting?

The working group will continue to consult as its recommendations to Council take shape, so this will not be the last opportunity for input.

HIGH COURT UPHOLDS COUNCIL'S FIRM STAND ON REGISTRATION STANDARDS

In a recent case the High Court has dismissed an appeal against a decision of the Dental Council that an overseas-qualified practitioner be required to take an examination before authorising his registration as a dentist in New Zealand.

The appellant emigrated to New Zealand in 1994 and in the following year applied for registration as a dentist here. At that time the Council's practice was that all overseas-qualified applicants, except those from Australia and the UK, were required to sit the NZDREX examination.

In 1996 the applicant appealed to the High Court against the Council's requirement that he sit an examination. In a judgment delivered in April 1998, the Court referred the matter back to the Dental Council. The Council reconsidered the application for registration but in October 1998 again decided that he did not have sufficient knowledge and experience to practise dentistry in New Zealand and that he would therefore be required to sit the NZDREX examinations. However, in recognition of the continuing education which he had been undertaking in restorative dentistry, oral surgery, crown and bridgework, Council did not require him to be examined in those areas.

The applicant filed another appeal to the High Court against this judgment. In its decision given in July 2001, the Court criticised the Dental Council's decision on procedural grounds and referred the matter back to the Council for further hearing and consideration.

The hearing took place in March 2002. In a decision given in April, the Council again decided that the applicant did not have sufficient knowledge and experience to practise in New Zealand and accordingly required him to undertake and pass a single examination tailored specially for him.

Once again the applicant appealed against the decision. The appeal was based on a number of complaints, including criticism that:

- Council had considered the applicant's overseas BDS, without adequate reason, as having an "outmoded knowledge base"
- Council had failed to take proper account of the applicant's experience as a practising dentist

- the March 2002 hearing was unfair because the applicant faced questioning in areas of which he had not been forewarned

However, in its judgment of August 2003 the High Court dismissed the case. Having gone through these complaints it was not satisfied that they, either singly or in combination, justified interfering with the Council's decision of April 2002. On the basis of the evidence available to him the judge said he was satisfied that the hearing was a fair one in terms of the notice given to the applicant of what it would involve and the way it was conducted. As regards the substance of the case the judge concluded:

The overriding point is... that this appeal is essentially an invitation to the Court to substitute its own judgment about [the applicant's] competence to practice dentistry in New Zealand for that of the Council. I am not willing to do that.

The costs incurred by DCNZ in defending have amounted to approximately \$200,000 or around \$110.00 for every dentist.

NZDREX REVIEW

The Dental Council has developed a revised New Zealand Dental Registration Examination (NZDREX) which was first administered in February 2002. The findings of a recent independent report have confirmed the new examination pass standard is comparable to that required of an Otago BDS graduate.

The Dental Council is charged with considering registration applications from dentists who have been trained overseas and who wish to practice in New Zealand. If it is not satisfied with applicants' competence to practise, the Council will require them to sit and pass examinations before registration is approved.

NZDREX is a three-stage examination consisting of written, clinical and NZ conditions of practice examinations. The goal of NZDREX is to provide a fair and comparable assessment of the capacity of candidates to adequately meet New Zealand standards of acceptable practice. The benchmark for the examination is the

graduating standard of the BDS Otago. However, the Dental Council takes the view that candidates will often have completed their formal studies some time ago. The standard is therefore set at the 5th year graduating level where the scope of basic sciences and theoretical knowledge is focussed on areas directly relevant to appropriate patient care and treatment.

In order to determine whether the revised NZDREX format has been achieving its goal, DCNZ commissioned an independent review undertaken by Alison Gilmore from the Education Evaluation Unit, University of Christchurch. The review comprised:

- an examination of the NZDREX model

and comparisons with the Australian and British models

- an evaluation of the separate components of the examination - in terms of validity, reliability, transparency and fairness

The findings of the report, published in July this year, endorse the revised NZDREX format. While it makes some minor technical recommendations as to how improvements could be made, it concludes that the revised process and pass standard is fair and comparable for all candidates and comparable to the standard required to qualify with an Otago BDS.

SPECIALIST REGISTRATION UPDATE

The composition of the Specialist Registration Advisory Committee underwent some changes earlier this year. Here we profile the new appointments to the Committee and provide an update on recent developments in specialist registration.



Victoria Hinson

Victoria Hinson is a licensed US attorney and has also completed the New Zealand Law and Practice examinations. She holds a BA in Russian and International Relations from the American University in Washington D.C. and a law degree from Northwestern University School of Law in Chicago. Victoria has considerable experience in legislative policy analysis and development. Over the past decade she has worked within a number of government departments and agencies, in the areas of accident compensation and occupational health and safety.

Consideration of specialist registration applications is a complex and rigorous exercise and Victoria's legal experience will help ensure fair and consistent processes. She is already familiar with the way DCNZ operates having previously served on the Council as a lay member (August 1999 to August 2000). Victoria has been a permanent resident of New Zealand since 1992. She is married and has two golden retrievers!



Peter Dysart

Peter Dysart graduated from the University of Otago with BDS in 1983 and MDS in orthodontics in 1987. He has been in full-time specialist orthodontic practice in Dunedin since 1988 with branch practices in Gore and Balclutha. From 1988-2001 Peter held a part-time position as clinical senior lecturer in orthodontics, University of Otago. This involved clinical supervision and tutoring of postgraduate students, and included research supervision and regular undergraduate lectures.

He is currently Editor of the New Zealand Association of Orthodontists Newsletter and serves as a committee member. He is a member of the NZAO's Education and Research Development Group and is one of two NZAO advisors to the Health and Disability Commissioner. For NZDA he has been involved in Otago Branch activities as a committee member and as Branch Secretary.

Peter is 42 and is married with two sons. He enjoys golf (but plays much less often than he would like!) and is involved in junior tennis administration.

Following the departure of Peter Innes, formerly chair of the Committee, Council made two new appointments to the Committee, these being Peter Dysart, orthodontist, and legal practitioner, Victoria Hinson. The membership of the Committee has thus been expanded from four to five, and existing Committee and Council member Mary Livingston has assumed the role of Chair. Remaining on the Committee are Council members Robert Love from the School of Dentistry and Auckland-based dentist Ed Alcock. Council Chair Brent Stanley attends meetings of the Committee in an ex-officio capacity.

Fees and procedures

The specialist registration application fee was increased substantially with effect from 1 January 2003. For applicants with New Zealand or Australian MDS qualification the fee has risen from \$278.00 to \$430.00 while for applicants with other postgraduate qualifications the fee has been increased to \$1,870. So what were the reasons for this increase, and why is there such a large differential in the fees structure?

The increases were applied on a cost-recovery basis following a detailed study of the time and resources required to process applications. For specialist registration the only recognised postgraduate qualifications are a relevant New Zealand or Australian MDS. For applicants with overseas postgraduate qualifications Council determines the comparability of the qualification with the appropriate Masters degree from the University of Otago - considered the benchmark qualification for specialist registration purposes. This is a time-consuming, costly process, involving an external assessment from the Dental School, University of Otago. Not in itself an easy exercise, the assessment of comparability can be rendered more difficult if the information supplied by candidates on their postgraduate qualifications is not adequately detailed. This can lead to requests for further information and result in applications being held over

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for reconsideration at subsequent meetings.

For many overseas postgraduate qualifications it is not possible to demonstrate equivalence with the University of Otago benchmark qualification. Council then needs to address whether the applicant's subsequent training and experience are sufficient to make up for the shortfall in the qualification. Accordingly, Council will consider a separate external assessment of the candidate's training and experience. Such assessments are undertaken by current practitioners in the specialty concerned - usually nominated by the relevant specialist society.

Recent changes to specialist registration policy mean that an assessment of candidates' training and experience is now required not only for those with overseas qualifications but also for candidates with recognised New Zealand and Australian qualifications. Exemptions only apply in the case of recent graduates who have completed an MDS from an Australian or New Zealand university and who apply for specialist registration within one year of graduating.

Applicants for specialist registration are advised to submit detailed information on their postgraduate qualifications and their subsequent training and experience. DCNZ is currently reviewing the advice it gives to candidates on information they should submit and will publish more detailed guidelines later this year.

The HPCA legislation provides the opportunity to move away from the current resource-intensive individual assessment of

qualifications to wider recognition of classes of qualifications. This kind of approach has the potential to make efficient use of Council's resources and to produce a simpler, less costly and more transparent registration process.

The HPCA Implementation Working Party is currently working on this issue.

Current specialties

There are currently 11 branches of dentistry recognised by the Dental Council for the purposes of registration as a specialist. Since September 2002 the branch of Restorative Dentistry has no longer been accepting applications. This follows a Council decision in accordance with a recommendation from the Specialist Registration Working Group. Current Restorative specialists have been given the opportunity to apply for specialist

registration in Prosthodontics. However, in view of the small number of applications received Council has so far only approved two transfers of specialist registration to Prosthodontics. As of 1 October 2003, there were 23 practising Restorative Dentists on the register.

The category of Oral Surgery was reopened by Council in September 2002. In making this decision, Council was motivated primarily by a desire to promote broader access to the New Zealand public of surgical dental services. The announcement of this decision met with opposition from OMFS specialists. The Dental Council has in the meantime considered numerous subsequent oral and written submissions from interested parties, including ANZAOMS. Discussions are continuing.

Specialist Branch	No. of practising registered practitioners ¹
Dental Public Health (formerly Community Dentistry)	10
Endodontics	12
Special Needs Dentistry (formerly Hospital Dentistry)	6
Oral Medicine	3
Oral and Maxillofacial Surgery	32
Oral Surgery ²	3
Oral Pathology	5
Orthodontics	75
Paediatric Dentistry	8
Periodontics	25
Prosthodontics	9
Restorative dentistry ³	23
Total no. of specialists	211

1 As at 1 October 2003

2 Closed Feb. 1996, reopened Sept. 2002

3 At its meeting in September 2002, Council decided that the branch of Restorative Dentistry would no longer be accepting applications.

ACCREDITATION VISIT

A Dental Council accreditation team headed by Professor Michael Morgan of the School of Dental Science, University of Melbourne, visited the Faculty of Dentistry over the week 6 - 9 October. The team's report is expected by early March 2004.

Dental Council of New Zealand accreditation is the process by which DCNZ recognises a dental educational programme including its facilities as having met predetermined national educational requirements. DCNZ first accredited the University of Otago School of Dentistry BDS programme in 1996. Before then the General Dental Council of the United Kingdom reviewed Australian and New Zealand schools of dentistry. The latest visit

marked the start of the second DCNZ accreditation exercise.

With automatic registration rights under Trans Tasman Mutual Recognition, it is important to ensure that all Australasian schools are producing graduates with the knowledge, skills and attitudes needed for competent dental practice in both countries. Thus, DCNZ and the Australian Dental Council are working towards formalising cooperation and involvement

in each other's accreditation visits into a formal joint accreditation programme for all Australasian dental schools.

The final report of the assessment team is due to be completed within five months of the accreditation visit. DCNZ intends to consider the final report and make a resolution on the accreditation status of the programme by May 2004. If full accreditation is granted, this will last for a period of seven years.