

CHAIR'S INTRODUCTION

The HPCA Act comes into force on 18 September 2004, and the Psychologists Board is confident that the years of work and consultation completed have prepared us well for this day. While the College, Society, Board, and other groups have worked to communicate developments all along the way, we are aware that many psychologists will still be less than familiar with the requirements of the new Act. This Newsletter therefore draws the most important aspects of the Act together for practitioners – to ensure at least basic awareness, and to stimulate further thought and reference to available information.

The HPCA Act is no longer an abstract proposal from the Ministry, but a hard piece of legislation that significantly affects how we each carry out our professional practice. The Board strongly encourages all psychologists to read this newsletter thoroughly, to discuss it with their colleagues, and to take whatever steps necessary to ensure they are fully familiar with the requirements of the Act that will affect their practice in the days and years ahead.

Board members and staff will be available at the NZPsS and NZCCP conferences to answer questions and provide further explanation of key issues. We can also be reached by telephone, mail, fax or email and welcome your contact with questions or concerns.

Steve Osborne
Chair
Psychologists Board

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1. PSYCHOLOGISTS AND THE PURPOSE OF THE HEALTH PRACTITIONERS COMPETENCE ASSURANCE ACT 2003

Psychologist means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by Section 114(1)(a) of the HPCA Act as a practitioner of the profession of psychology.

The principal purpose of this Act is to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practice their professions.

The Act seeks to attain its principal purpose by providing, among other things:

- (a) for a consistent accountability regime for all health professions; and
- (b) for the determination for each health practitioner of the scope of practice within which he or she is competent to practise; and
- (c) for systems to ensure that no health practitioner practises in that capacity outside his or her scope of practice; and
- (d) for power to restrict specified activities to particular classes of health practitioner to protect members of the public from the risk of serious or permanent harm; and
- (e) for certain protections for health practitioners who take part in protected quality assurance activities; and
- (f) for additional health professions to become subject to this Act.

2. THE PSYCHOLOGISTS BOARD'S ROLE IN SPECIFYING SCOPES OF PRACTICE

In order to meet the requirements of Section 11 of the HPCA Act ("the Act"), and after extensive consultation and deliberation, the Psychologists Board has formally adopted two **general** scopes of practice - "**Psychologist**" and "**Trainee or Intern Psychologist**" - and two **vocational** scopes of practice - "**Educational Psychologist**" and "**Clinical Psychologist**" - for the profession. In keeping with the previously outlined "developmental approach" to scopes, a procedure for the development of additional vocational scopes has also been adopted.

The Board consulted with the wider profession through two discussion consultation papers sent to all registered psychologists and related professional associations including the Psychologists HPCAA Working Party, employers, various government agencies, universities and numerous other individual and group contacts. In addition, presentations were made at conferences of the New Zealand Psychological Society and the New Zealand College of Clinical Psychologists. Well over 400 submissions were received and the Board wishes to sincerely thank all who took the time to reflect on this issue and make known their views and suggestions. The Board believes the resulting scopes of practice will serve their purpose well for years to come, but it should be noted that the scopes will be reviewed and, where indicated, improved over time and re-gazetted.

The Board continues to develop the policies and procedures that will operationalise and underpin the scopes. Issues such as equivalency, accreditation, competence and competencies are all being addressed. Consultation with the profession and other stakeholders will continue.

3. WHAT DOES THIS MEAN FOR ME?

On 18 September 2004, when the Act officially comes into effect, all psychologists registered under the Psychologists Act 1981 will be deemed to be registered under the general **“Psychologist”** scope of practice. You do not need to re-register under the new Act, or apply for a general scope of practice if you are currently registered.

People who apply for registration before 18 September 2004 under the Psychologists Act 1981 will complete registration under that legislation. If you are currently undergoing supervision through a Board accredited agency (i.e. NZDF, NZPSS, CYFS) you will continue your supervision for registration process under the general scope of practice for **Trainee or Intern Psychologists**. [Note: An Interim Practising Certificate will be required - see 8].

The **“Clinical Psychologist”** and **“Educational Psychologist”** vocational scopes of practice are available to registered psychologists who hold a minimum of a Masters degree in psychology and an appropriate Postgraduate Diploma or equivalent qualification. Unlike the prescriptive criteria of Psychologists Act 1981, the HPCA Act enables a registered psychologist's experience to be taken into consideration when applying for a vocational scope of practice. The Board's Assessment Committee is able to establish whether applicants are eligible for a vocational scope of practice. A form to apply for the vocational scope(s) of practice will be available on the Board's website and from the Registrar's office.

Conditions may also be placed on a psychologist's scope of practice, for example, limiting practice to certain populations (children, adults) or settings (group practice), or perhaps requiring additional training or supervised practice to be undertaken within a certain timeframe, e.g. cultural competence.

4. REGISTRATION QUALIFICATIONS AND EQUIVALENCE

The minimum academic qualification for registration under the new Act will be a Masters degree in psychology. **This means that the Bachelors Degree with Honours will no longer be accepted as a minimum qualification required for the practise of psychology.**

“Equivalent Qualification(s)” means:

- formal academic qualifications that are *at least* equivalent to the *minimum* qualification(s) required for the intended scope of practice, and/or
- for practicum/internship: Evidence of competent professional performance that has been completed under appropriately structured supervision, and that has been formally rigorously assessed by an appropriate method.

Candidates must provide the Board with conclusive and clear evidence that they possess such qualification(s).

5. WHAT PROFESSIONAL TITLE CAN I USE?

From 18 September 2004, law will protect the titles **“Psychologist”**, **“Clinical Psychologist”**, **“Educational Psychologist”**, **“Intern Psychologist”**, and **“Trainee Psychologist”**. Part 1, Section 7 of the Act states that a person may only use names, words, titles, abbreviations or descriptions stating or implying that the person is a health practitioner of a particular kind if the person is registered, and is qualified to be registered, as a health practitioner of that kind. Under the Psychologists Act 1981, only the title **“Registered Psychologist”** was protected, leaving the public more vulnerable to de-registered, unregistered, and unqualified practitioners.

What if I do not want to be registered?

The Board welcomes the changes to title protection under the new Act, as it will provide a greater ability to protect the public. The Board is, however, keenly aware of the controversy and complications it has created. Some psychologists who have previously not chosen to be registered (e.g. academics and researchers) will now either have to register to use the title **“Psychologist”** legally, or cease using the title **“Psychologist”**. Applying

for registration incurs a one off cost and there is no need for those people to purchase an annual practising certificate – unless the psychologist is practising in an area that involves legitimate public safety concerns. Alternatively, the Board could consider an application for development of a scope of practice for such persons.

It is not the Board's intention to in any way disenfranchise this group, but as always, our primary responsibility is to protect the safety of the public who seek the services of registered psychologists and we remain convinced that full protection of title is an absolutely essential component of that protection.

Registered psychologists in the general **“Psychologist”** scope of practice may use the title **“Psychologist”** with or without prefixes to that title, for example; **“Health Psychologist”**, **“Counselling Psychologist”**, **“Industrial Organisational Psychologist”**, or **“Community Psychologist”**. The above prefix titles will be restricted when and if those titles, in the form of a scope of practice, are gazetted. They **may not use** the titles **“Clinical Psychologist”** or **“Educational Psychologist”**. In other words, registered psychologists use the gazetted titles for the scopes of practice in which they personally are registered.

People undergoing supervision to registration and students in their internship year are, once registered, entitled to use the titles **“Trainee Psychologist”** or **“Intern Psychologist”**.

Students who are not yet registered with the Board could refer to themselves as **“Psychology Students”**, but not as **“Trainee Psychologist”** or **“Intern Psychologist”**.

People or groups of people calling themselves psychologists or holding themselves out to be psychologists, should be made aware that unless they are registered as psychologists under the HPCA Act, they are acting illegally by doing so. Section 7(5) provides for a summary conviction by way of a fine not exceeding \$10,000 for any person who contravenes this part of the Act. The Board would appreciate written advice of any possible infringement of this.

6. PRACTICALITIES: RENEWAL OF PRACTISING CERTIFICATES

Annual Practising Certificates (APCs) issued before 18 September 2004 will continue through to 31 March 2005. To assist you in maintaining a current and legal registration status, the Board will be posting applications for practising certificates in January 2005. Application forms and payment should be sent to the Registrar's office before 25 February 2005 to allow for the bulk of practising certificates to be sent out before 31 March 2005. *Payments received after the due date will incur a late fee.* As in the past, the New Zealand Health Information Survey will be part of the APC mail-out.

Under the new Act, applying for an APC includes the following minor changes:

- All existing registered psychologists will be registered in the general **“Psychologist”** scope of practice. The title of each of the psychologist's scope(s) of practice will be endorsed on their practising certificate.
- There will be more address details and other contact information required.
- A statutory declaration of competence will need to be signed and witnessed.
- **Bulk payments of registration fees from employers (e.g. DHBs, government agencies, etc.) cannot be accepted.** Individuals will have the responsibility of ensuring that their registration fee is paid on time.
- Section 7(2) of the Act states: “No person may claim to be practising a profession as a health practitioner of a particular kind or state or do anything that is calculated to suggest that the person practises or is willing to practice a profession as a health practitioner of that kind unless the person -
(a) is a health practitioner of that kind; and
(b) holds a current practising certificate as a health practitioner of that kind.

7. CHANGES TO PRACTISING CERTIFICATE FEES

For registered psychologists, the standard APC year is from 1 April until 31 March. The Board has not changed the APC fee under the new Act

and it remains at \$455.00 per annum. A reduced fee may be applied for psychologists who only begin practising late in the APC year. All fees will be reviewed in one year's time following an assessment of the financial impact of the HPCA Act implementation.

8. PRACTISING CERTIFICATE FEES FOR STUDENTS AND PEOPLE UNDER SUPERVISION

Applicants who were required to undergo a period of supervision, or for some other reason related to competence are enrolled in the Supervision 2000 Scheme, will be issued with an Interim Practising Certificate (IPC). For this group of people, payment of the IPC fee of \$455.00 is not required until 1 April 2005. The IPC is valid for a maximum of twelve months at any one time. At the successful completion of the supervision programme, the IPC will be cancelled and an APC will be issued to enable them to practise as a fully registered psychologist.

Students completing internships, whom the Act requires to be registered because they are working as psychologists under supervision, are required to pay for an IPC at the start of the next practising year, i.e. \$227.50 from 1 April 2005. The Board recognises the hardship this unexpected payment of Registration and IPC fees may cause, and it is currently exploring options for assistance. Students will be notified as soon as possible through their training programme.

9. WHAT INFORMATION ON THE PSYCHOLOGISTS REGISTER IS AVAILABLE TO THE PUBLIC?

Under the Psychologists Act 1981 a 'register' address for all registered psychologists was able to be made known to any member of the public who asked for that information. The Board, under section 138 of the Act, resolved to make only the minimum legal information available to the public. This does not include addresses of registered psychologists, but does include name, registration qualifications, scope(s) of practice, any changes to scope(s) of practice (e.g. conditions imposed), and whether an annual practising certificate or interim practising certificate is held. Members of the public who enquire of the Board contact details for registered psychologists will be referred to the Yellow or White Pages. The Board for communication purposes may collect other information, including address, telephone and email addresses, but this information does not form part of the public register.

10. CHANGING ADDRESS AND NAME DETAILS

Registered psychologists are required under the Act to promptly give the Registrar of the Board written notice of any change in postal address, residential address and, if applicable, work address. Within one month after a registered psychologist changes his/her name, written notice of the new name must be given to the Registrar.

11. NEW INFORMATION ABOUT COMPLAINTS AND DISCIPLINE

Under the Act, there will be major changes to the way in which concerns about, and complaints against, registered psychologists are processed. A range of new mechanisms has been established that enable the Board to exercise more flexibility in addressing concerns about psychologists' practice, fitness and competence in a constructive and rehabilitative manner. The new Health Practitioners Disciplinary Tribunal (HPDT) will be in operation and will hear the most serious of cases. More information about the HPDT will be available from their website after 18 September 2004.

Best Practice Approach

The Board will continue to hear cases recommended for hearing under the Psychologists Act 1981 legislation throughout 2005. Psychologists should take note that many of the cases that result in formal complaints are Family Court related, and that practise in this area requires the utmost caution and strict adherence to an evidence-based, best practise approach.

Many cases also involve psychologists who have become isolated in the profession, who are not receiving regular clinical supervision and who have strayed into areas of practice in which they are not competent. The HPCA Act provides some useful mechanisms to promote continued competence and prevent 'disconnection', and the Board encourages psychologists to routinely complete a self-assessment (perhaps in collaboration with a supervisor) and to develop an action plan for ongoing competence and development. The Board has noted a trend in recent hearings that psychologists who were found guilty and fined or ordered to pay costs found themselves in very serious financial strife. The Board strongly encourages all practitioners to carry indemnity insurance.

12. MAJOR CHANGES TO THE PROCEDURE OF INVESTIGATING COMPLAINTS

Complaints to the Board against registered psychologists should be made in writing and be sufficiently detailed. When the Board receives a patient care complaint, i.e. a complaint alleging that the practice or conduct of a health practitioner has affected a health consumer, it is required to promptly send the complaint to the Health and Disability Commissioner. The Commissioner may also refer complaints to the Board after which the Board will assess the complaint, consider the nature and circumstances of the complaint, and decide on what action or actions it should take in response.

The Board **may** decide to refer the complaint to a Professional Conduct Committee ("PCC"). PCCs will be comprised of two registered psychologists and one layperson. (A 'layperson' means a person who is neither registered nor qualified to be registered as a health practitioner). A PCC will receive evidence and investigate a case. This may include oral evidence and written submissions and statements from a range of people involved, and where necessary, a clinical expert. The PCC can also recommend suspension of a psychologist's practising certificate if, at any time in the course of investigating the matter, the PCC believes that the psychologist's practice poses a risk of serious harm to the public. After completing the investigation, the PCC can make a number of recommendations and one determination.

Recommendations include any of the following:

- A competence review.
- A review of fitness to practise.
- A review of scope of practice.
- Referral of the matter to the police.
- That the psychologist is counselled.

Determinations include one of the following:

- That no further action is taken.
- That a charge be brought against the psychologist before the Health Practitioners Disciplinary Tribunal.
- That a complaint is submitted to conciliation.

The Board, in preparing for these changes, ran a PCC seminar in February 2004 with a cross-section of recent CAC chairpersons and other experienced CAC members and legal personnel. Further training seminars are planned in the future in order to continue to support practitioners who assist the Board in this way.

13. NEW PROVISIONS TO UNDERTAKE COMPETENCE REVIEWS

The Psychologists Board is required to oversee a system providing for Competence Reviews ("Reviews") and Competence Programmes ("Programmes"). Concerning Programmes, the Board is proposing to start simply, and to evolve protocols that are more complex if these prove necessary. Reviews and Programmes are not disciplinary in nature. A review is to assess the psychologist's competence, and is therefore **evaluative and educational in nature**. Any Programme arising from a review is remedial in nature.

There has to be significant concerns prompting Reviews, and the requests for these Reviews are likely to come from professional colleagues, employers, organisations such as the Health and Disability Commissioner, and the

Board (via PCCs). The Board has the legal right to disregard concerns raised by other health practitioners if seen as frivolous or vexatious.

The Board may at any time review the competence of a registered psychologist holding a current practising certificate, whether or not there is reason to believe that the psychologist's competence may be deficient.

A Competence Review Panel ("Panel") will be appointed consisting of practitioners who are clinically competent, have good interpersonal skills, and have some knowledge of performance and educational assessment relevant to the scope of the person being reviewed. The practitioner being reviewed will be told about the substance of the concerns and the activities used to assess competence. These activities may include reviewing written work, files, and interviews with the practitioner, as well as commonly accepted assessment tools. This practical component of the Review may take from half a day to a full day depending on the breadth of the problem.

Within a month of conducting the Review, the Panel writes a report to the Board. If the Panel has determined that the practitioner does not meet required competence standards, then the Board must make one or more of the following orders specified in the Act:

- That the practitioner undertakes and individual competence programme. If this is the case, the Board works with the practitioner to collaboratively develop a Programme to fill the gaps in skill, as described in the Review. This will include specific objectives, educational activities, and an agreed process of reporting or reassessment at the end of the process. The Programme may also include the appointment of an educational or clinical supervisor. The Practitioner meets the cost of completing this programme;
- That one or more conditions be included in the practitioner's scope of practice;
- That the practitioner sit a specified examination or assessment;
- That the practitioner be counselled or assisted by one or more nominated persons."

The Board will meet the cost of a review.

14. COMPETENCE PROGRAMMES GENERAL

Under Section 40 of the Act, the Board may set or recognise competence programmes for all psychologists or groups of psychologists. The Board has commenced planning the framework for the development of programmes and the profession will be informed of options and given an opportunity to provide input in due course.

15. NEW CULTURAL COMPETENCE REQUIREMENTS

Section 118 (i) of the Act states that standards of cultural competence are to be observed by health practitioners of the profession. *Cultural competence is defined as a having the awareness, knowledge, and skill, necessary to perform a myriad of psychological tasks that recognises the diverse worldviews and practices of oneself and of clients from different ethnic/cultural backgrounds.* Work is currently being done to develop these standards but they could include:

- That practitioners' consider a patient's culture throughout care to enhance the health outcome for the patient.
- That practitioners acknowledge that the Treaty of Waitangi has an intellectual and applied place in treatment considerations for Maori patients. Open and sincere communications are used to secure a partnership and understanding of Maori needs that leads to improved health outcomes.
- That practitioners reflect on their practice and values and the impact of these on patients outcomes.

The Board is also required under the Act to set standards of clinical competence and ethical conduct to be observed by registered psychologists.

It is suggested that Universities teaching psychology students, employers of psychologists (e.g. DHBs, government agencies, etc.) engaging psychologists in any kind of capacity under the Act take note of this requirement and include

cultural competence in some form or other in their practise.

16. DEVELOPMENTS REGARDING NEW PROFESSIONS

The Ministry of Health has adopted guidelines and a process for consideration of professions wishing to become registered under the HPCA Act. The Board is aware that psychotherapists are seeking registration via this route, and discussions have been held with the New Zealand Association of Psychotherapists in this regard. The Board shares the NZAP's opinion that a joint Board (Psychology and Psychotherapy) would be inappropriate and quite possibly unworkable, but in the interest of public safety and professional courtesy, the Board has offered to assist the NZAP in its efforts to achieve registration as an independent authority.

17. RESTRICTED ACTIVITIES

Revised consultation documents on Restricted Activities under the HPCA Act 2003 were received from the Ministry of Health in July 2004. These are activities that the Minister of Health will recommend to the Governor-General be declared 'restricted'. The effect of such a declaration would be to make it illegal for anyone other than a health practitioner registered under the HPCA Act to undertake any of those activities. Any such declaration is likely to come into effect from September 2004.

The Board provided a response to the Ministry on 13 August 2004 noting its concerns amongst the HPCA professions at the Ministry's reduced list of activities, and in particular, the proposed restricted activity, "formal diagnosis and/or treatment of major mental illness". The Board proposed, in its submission, four additional activities each requiring unique and advanced competencies to be performed safely (and yet each are known to regularly be attempted by unqualified persons putting consumers, families, systems, and society at risk of serious (and sometimes permanent) harm).

18. PSYCHOLOGISTS BOARD MEMBERS

The Board was pleased to receive recent notification from the Ministry of Health that Fred Seymour has been appointed to the Board, replacing long-standing member Anne Raethel. Fred Seymour joins current members, Steve Osborne (Chair), Janet Peters (Deputy Chair), Lois Surgenor, John Bushnell, Catherine Love, Ron Chambers, Moana Waitoki, and Karl Polutu Endemann (lay member). The Ministry of Health published nominations for a second lay member on 20 July and the Board awaits notification of the lay member appointment from the Ministry of Health at the end of August. The Board is serviced by Karen Crosby (Secretary / Registrar - from 18 September 2004) and Bill King (Registration Administrator / Deputy Registrar - from 18 September 2004).

19. THE BOARD'S WEBSITE

Go to www.psychologistsboard.org.nz.

The Board is currently preparing up to date information to be posted on the website to replace information applicable under the Psychologists Act 1981. The latest news from Board meetings, and HPCA Act 2003 updates are easily accessible from the home page. There will be a period of construction in the week before and after 18 September while new information is finalised and published. Feedback on the website is always welcome and suggestions for improvements can be emailed to the Registrar. Please visit the website frequently.

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