



The New Zealand Psychological Society

Te Rōpū Mātai Hinengaro o Aotearoa

Submission to the Health Select Committee
on the
Health Practitioners Competence Assurance Amendment Bill
prepared by the
New Zealand Psychological Society
Te Rōpū Mātai Hinengaro o Aotearoa

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1.0 Acknowledgement

1.1 The New Zealand Psychological Society (NZPsS) welcomes the opportunity to comment on the Health Practitioners Competence Assurance Amendment Bill.

2.0 Introduction

2.1 The NZPsS is the national, professional association that serves psychologists from all areas of psychological practice in New Zealand. Our collective aim is to improve individual and community wellbeing by disseminating and advancing rigorous practice of psychology.

2.2 The NZPsS has over 1200 members working in a wide range of health, education, justice, corrections, children and young people's services, academic and NGO settings. We also have over 600 post graduate psychology student members.

3.0 Comments on Part 1 Amendments to principal Act

3.1 8 Section 39 amended (Interim suspension of practising certificate or inclusion of conditions in scope of practice pending review or assessment)

3.2 Comment

The NZPsS would like to see clearer guidelines for responsible authorities around the giving of a copy of an order under subsection 3A (a) [iii] to "any person who works in partnership or association with the practitioner". It is not clear who "association with" is referring to. Psychologists work and are associated with many psychologists and other professionals. Which of these would be entitled to a copy of an order? We understand the need to inform others but the privacy of the psychologist should be protected by identifying those who need a copy of the order in the interests of public safety. See also Section 48, 50 and 51, 69 amendments in relation to this issue.

3.3 10 Section 49 amended (Power to order medical examination)

3.4 Comment

We support the replacement of "medical practitioner" with "an assessor/health practitioner" but suggest that "health practitioner" be replaced by "registered" health practitioner, i.e. a health professional regulated under the HPCA Act.

3.5 14 Section 68 amended (Referral of complaints and notices of conviction to professional conduct committee)

3.6 Comment

We are concerned that this section of the Bill makes it mandatory for a responsible authority to refer a notice of a conviction to a professional conduct committee. This appears to take place in the absence of an investigation into the seriousness of the offence.

3.7 15 Section 69 amended (Interim suspension of practising certificate pending prosecution or investigation)

3.8 Comment

We are concerned that S69 raises issues of natural justice. The first assumes guilt - even where a complaint might be entirely unfounded and unprovable in Court; the penalty is a loss of income for a practitioner for the entire time it takes to reach a decision (and many cases are dismissed in that process). Furthermore, it sets up a quasi- court in the responsible authority or its professional conduct committee, making judgements on alleged offending or behaviour that may be unrelated to professional conduct.

The latter is worrying, as few offences ever result in penalties close to the maximums specified in the Crimes Act which contains few references to community-based sentences that are the most common tariffs used by the courts. In addition to this, there are potentially offences that would be captured in that (quite low) maximum tariff range specified, such as civil disobedience. Under the proposed changes to the HPCA, such actions would mean psychologists and others may be at risk of suspension of their right to practise for lengthy periods of time. It is also common practice for charges to be substantially amended before a prosecution hearing eventuates (or at a hearing) which can result in charges with considerably lower maximum penalties. Even if a reduced charge was then proven, that could mean the practitioner was improperly (and unfairly) deprived of income by an Authority decision, also raising the issue of liability of the authority.

Some practitioners could be at risk of being investigated for what might be seen as trivial offences (e.g. personal use of cannabis, illegal assembly). While there are some conditions in the proposed law, determination of what constitutes "reasonable grounds" is unclear and may engender expensive legal challenges to the use of these provisions. This could result in costs being passed on to practitioners and to clients.

4.0 Amalgamation of authorities

4.1 116A *Authorities may be amalgamated*

4.2 Comment

The NZPsS is supportive of amalgamation of authorities if there is evidence that the safety of the public will be enhanced and that there will be significant efficiencies and cost savings. These efficiencies and savings need to be weighed up against the often-considerable expenditure on consultants, information technology infrastructure, redundancies and other costs of amalgamation.

We think the legislation needs to include a provision for not only the authorities being consulted on proposed amalgamations but also the professionals who are regulated by the authorities. This could be done through professional bodies such as the NZPsS. Regulated professionals have a vested interest in the efficiency, effectiveness and cost structures of responsible authorities given their APC fees fund authorities.

We believe however there are considerable advantages in having Boards that regulate specific professions. Having a responsible authority that understands in detail the type and context of the work of psychologists has for example, ensured that the profession and the New Zealand Psychologists Board have been able to work collegially on developing a code of ethics, practice guidelines and other activities to maintain and develop professional competencies.

4.3 118 amended (*Functions of authorities*)

4.4 Comment

We are not clear in 118 (j) how authorities would “promote and facilitate inter-disciplinary collaboration and co-operation in the delivery of health services”. We suggest this clause is too open ended to be useful and should be removed unless there is clarity on what an authority would need to do to achieve this objective.

5.0 Performance Reviews of Authorities

5.1 122A *Performance Reviews*

5.2 Comments

The NZPsS supports performance reviews of authorities but is concerned about the additional cost that might be added to psychologists’ annual practicing certificates and subsequently to professional fees.

We consider it important that the terms of reference for performance reviews of authorities include comment from the profession to ensure that regulatory processes as well as outcomes are evaluated. We believe that the outcomes of performance reviews of authorities need to be accessible to both the profession and the public.

6.0 Information about health practitioners

6.1 134A Authority to provide to Director-General of Health Information about health practitioners

6.2 Comment

The NZPsS believes that workforce forecasting, planning and development is urgently required across the health sector not just in relation to the medical and nursing workforce but for the entire health workforce. We are supportive of data being collected on the psychology workforce as long as there are robust processes for the collection and privacy of individual psychologists' data.

6.3 157B Authorities to issue naming policies.

6.4 Comment

The naming of practitioners by a Board is an action that will have serious consequences for the reputation and livelihood of practitioners. Nevertheless, the NZPsS believes this is an important action for Boards to take when necessary to protect the public.

However, the NZPsS believes that naming policies and procedures should be standardized across authorities with reference to public safety and natural justice. Having a general policy will avoid authorities enacting different naming procedures and possibly confusing the public. Differing naming policies may also lead to costly litigation by practitioners who wish to challenge, for example, a more stringent naming policy by their Board in comparison to others.

7.0 Summary

The NZPsS is supportive of the intent of the Health Practitioners Competence Assurance Act to protect the health and safety of the public by ensuring that health practitioners are competent and fit to practice. We are concerned that the implications of some of the amendments in the current Bill have not in our view, received sufficient consideration as to whether they will increase the health and safety of the public nor how the amendments will impact on practitioners and the Boards who are charged with operationalizing the Act. In this submission we draw attention to amendments we think require further scrutiny and consultation.