

Ms Allison Sutherland
Strategic Workforce Development Unit
Ministry of Health
PO Box 5013
WELLINGTON

03 March 2010

Dear Allison

Discussion document: How do we determine if statutory regulation is the most appropriate way to regulate health professionals?

The Aotearoa New Zealand Association of Social Workers (ANZASW) welcomes the opportunity to comment on the above discussion document.

ANZASW is the professional body for Social Workers in Aotearoa New Zealand. Formed in 1964, it currently has approximately 4000 members. A sizable proportion of its members are social workers working in health, particularly mental health. The Social Worker Registration Board (SWRB) is the registration body for the profession, governed by the Social Workers Registration Act 2003 (SWRA).

The Association's comments on the individual areas requested within the discussion document are attached.

Recognition of Social Workers under the HPCA Act

The Association wishes to take this opportunity to raise a significant issue relating to the Health Practitioners Competency Assurance Act 2003 (HPCA Act) and its impact on social workers.

In 2003, the then ministerial preference that all social workers were registered under the SWRA, rather than splitting the profession between SWRA and the HPCA Act, was welcomed in terms of consolidating the social work profession. However, the subsequent absence of a direct recognition of the position of social workers under the terms of the HPCA Act has been disadvantageous for those social workers working in health. We have heard of many instances, where these social workers, due to the lack of recognition under the HPCA Act, have face exclusion or discriminatory practices because roles have specifically requested a health professional.

The Association strongly advises that DHBs be informed that whilst there is no formal reference within the HPCA Act itself, the position of registered social workers is addressed through both the Social Work Registration Act 2003 and the Health and Disability Commissioner Act 1994 (1994 NO 88). The relevant references are outlined below.

Health and Disability Commissioner Act 1994 Reprinted as at 1 November 2008

Now reads:

AUTHORITY has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003; **and includes the Social Workers Registration Board established by section 97 of the Social Workers Registration Act 2003**

authority: this definition was inserted, as from 18 September 2004, by section 3(4) Health and Disability Commissioner Amendment Act 2003 (2003 No 49).

See section 22 of that Act as to the transitional provisions.

SECTION 5 HEALTH PRACTITIONERS COMPETENCE ASSURANCE ACT 2003 NO 48 (AS AT 24 JANUARY 2009)

Authority means a body corporate appointed, by or under this Act, as the body that is, in accordance with this Act, responsible for the registration and oversight of practitioners of a particular health profession.

These provisions allow registered social workers to work alongside registered health professionals with **equivalent** status, enabling social workers to fulfill the role of 'responsible clinician'.

ANZASW will continue its efforts to correct the general misunderstanding regarding the position of social workers under the HPCA Act. To help overcome this, social workers would find it helpful if an explicit link, similar to the link that exists between the SWRA and the Health and Disabilities Commissioners Act (1994), be introduced to the HPCA Act.

As defined by the International Federation of Social Workers, the social work profession is a broad holistic profession that:

"Promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well-being. Utilising theories of human behaviour and social systems, social work intervenes at the points where people interact with their environments. Principles of human rights and social justice are fundamental to social work".

Reflecting this, ANZASW is of the view that professionals such as social workers and counsellors who work in both health and social services would be better regulated outside the HPCA Act, rather than be limited to a specific area of social work. This approach would produce greater workforce flexibility, as long as the professional status was recognised in both health and social services.

HPCA Act Restricted Activities list

Regarding the recent amendments to the HPCA Act restricted activities list, ANZASW is pleased to see that its recommendation that 'performing a psychosocial intervention with an expectation of treating serious mental illness without the approval of a registered health practitioner" be removed from the list has been accepted.

Yours sincerely

Lucy Sandford-Reed
Chief Executive



Aotearoa New Zealand Association of Social Workers Inc

How do we demine if statutory regulation is the most appropriate way to regulate health professionals – MOH Discussion document Jan 2010.

Invitation to submit comments on:

1. Are the principles for regulation set out in section 9 of this document appropriate? If not, why not? *These principles seem appropriate, clear and concise*
2. Are the criteria set out in section 10 appropriate? If not, why not? *The criteria is appropriate and provides useful benchmarks for exclusions*
3. Are there any other criteria you think should be added to section 10?

4. Do you agree that to establish a 'risk of harm' the profession must be involved in at least two of the following activities:

- invasive procedures
- clinical intervention with the potential for harm
The term 'clinical' requires definition. ... This has overt medical connotation that is not helpful in most social work settings.
- making decisions or exercising judgement which can substantially impact on patient health or welfare, including situations where individuals work autonomously, i.e., unsupervised by other health professionals?

We would prefer the use of the term 'client' or 'persons' which would be more inclusive.

5. Should a profession be required to meet all of criteria 1–5 to establish that the health services pose a risk of harm to the public? If not, what are the minimum criteria a profession should meet? *Yes*

6. Do the proposed criteria provide sufficient guidance on what factors will be taken into account in establishing whether it is 'otherwise in the public interest' to regulate a profession? *Yes*

7. Should applicants be given the detailed guidelines outlined in section 11?

Yes

8. Should any other matters be included in the guidelines outlined in section 11?

9. Should any other information be added to the application form to guide applicants?

10. If the revised criteria are confirmed, do you have any comments about the timing for introducing the new criteria? In particular, do you have any comments about how introducing the proposed changes might impact on the new professions that currently have applications with the Ministry?

Social work and counselling do not have the potential to inflict physical harm. However, poorly delivered services can contribute to emotional/psychological harm. Regulation is therefore appropriate. ANZASW is of the view that for these services, regulation could effectively be mandated through professional bodies. In relation to the counselling profession seeking registration, counselling is an analogous profession to social work, sharing many of the basic social work tenets. Reflecting this, counsellors may be better aligned with the regulations relating to Social Work rather than under the HPCA Act.

11. Do you have any other comments?

It appears that the methods being proposed to achieve this aim focus on 'internal' systems enforced by Acts of Parliament. There is some merit for the inclusion of public (external) initiated systems to evaluate/determine such risk - results of patient surveys, client complaint systems etc. - as well as promoting consumer participation in the management of health services. This way public opinion will play a significant role in determining the regulation and development of health professions.