

Health Practitioners Competence
Assurance Act

and the

Disability and Mental Health &
Addictions NGO Sector

November 2005

Acknowledgements

Non government organisations play a crucial role in delivering health and disability services in New Zealand and the commissioning of this report represents a new collaborative environment within the sector. NGOs collectively employ many skilled and experienced health professionals and this report is a product of key agencies committed to ongoing development and investment in the future workforce.

The sponsors of this report have a specific mental health and addictions and intellectual disability focus but the issues raised are relevant to all NGOs employing staff who will require registration under the legalisation.

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1. Executive Summary

The Health Practitioners Competence Assurance Act (2003) aims to protect and promote safe practice of health practitioners. It introduced a new process whereby health professionals are required to demonstrate competence annually in their scope of practice before they are issued with an annual practicing certificate.

The Health Practitioners Competence Assurance Act (HPCA Act) mandated responsible authorities (referred to hereafter as registering authorities) to ensure the quality of health practitioners by ensuring their ongoing competence, and expanding the application of quality assurance provisions through the development of professional standards.

The number of health professionals working in the mental health and addiction services and disability community and non-government organisations¹ (NGO) is growing. The trend is expected to continue and increase as the population ages and the needs of some consumers become increasingly complex. Many health professionals are not employed in traditional health professional roles.

It is not the role of registering authorities to determine the cost of compliance for health professionals to maintain their competency and meet the requirements for an annual practising certificate. A full cost analysis has not been completed to ascertain the cost of compliance for individual practitioners or their employers.

While historically the cost of professional development has been met by the individual health professional (or at times their employer), expectations and existing market practice falls back on employers to support health professionals to meet the requirements. The recent District Health Board (DHB)/ New Zealand Nurses Organisation (NZNO) MECA² agreement with nurses has set a benchmark the entire health and disability labour market will need to work towards.

At this point registering authorities are continuing to develop their requirements for individual practitioners. NGOs need to work collectively with other parties such as DHBs to positively influence registering authority policy as they determine the core competencies of health professionals.

NGOs should develop policies and processes to assist in meeting the requirements of the HPCA Act and employer and employee obligations. There is a need for NGOs to develop professional development pathways and competencies. The University of Auckland, Mental Health Research, Policy and Service Development unit within the Faculty of Medical and Health Sciences has agreed to undertake a needs analysis to identify the number and profile of health professionals working within the NGO sector 2006. This will provide useful information to inform further work.

¹ For the purposes of this project NGOs are defined as mental health and disability community service providers.

² Multi-employer Collective Agreements

2. Summary of recommendations

It is recommended that the Steering Group:

1. Develop a guide for NGOs on each registering authority's requirements and employer responsibilities.
2. Undertake a more detailed cost analysis of the impacts of the HPCA Act on the NGO sector employers and health professionals. This work will be informed by the Auckland University Research Project.
3. Encourage Registering Authorities to work together toward standardisation of competency requirements or 'shared competencies'.
4. Consider developing a competency framework for health professionals working in the NGO sector.
5. Work with District Health Boards and NGOs to access professional practice supervisors for health professionals employed in NGOs at no additional cost to NGOs.
6. Consider different options for NGOs to develop a cost effective way of meeting compliance costs including a professional development programme that meets the needs of all health practitioners working within the NGO sector. This may be addressed in part by the Auckland University Research Project.
7. Develop policies and processes that could assist NGOs to manage risk around the group of employees that may fall into an 'optional Annual Practising Certificate' category.

3. Introduction and purpose

The Health Practitioners Competence Assurance Act (2003) introduced a new process whereby health professionals are required to demonstrate competence annually in their scope of practice before an annual practising certificate is issued.

Post this, a steering group comprising representation from the mental health and addiction services and disability sector was established. This followed discussions between Platform³ and IDEA Services⁴. The steering group's purpose is to work together to consider the implications of the HPCA Act and how to best develop the role of health professionals in the mental health and addiction services and disability community NGOs.

Members of the steering group are:

- Marion Blake, Platform
- Carmel Daly, for IDEA Services
- Wendy Rhodes, IDEA Services
- Jane MacGeorge, Healthcare NZ
- Mark Brown, NZCare

Richmond Fellowship provided funding to Platform to undertake this phase of work, which has included:

- Gathering background information
- Identifying the requirements of the HPCA Act as they relate to NGOs
- Identifying the requirements of relevant registering authorities
- Developing guidelines for NGOs on how to support health professionals to meet the requirements of the HPCA Act
- Initial analysis of the cost of compliance to the HPCA Act

This project provides the first foundations for the development of a competency framework specific to health professionals working in NGOs. It also interfaces with a research project aimed at profiling the professional workforce within NGOs being undertaken by Auckland University.

4. Project Methodology

The key steps of this project have been:

- Review the HPCA Act
- Review other background information including government strategies relevant to workforce development and the mental health and disability sector
- Interview representatives from NGOs
- Interview and gather information from the Ministry of Health, Registering Authorities, DHB NZ and NZ College of Psychiatric Nurses
- Analyse findings and develop a draft report with recommendations
- Distribute the draft report to mental health and addiction services and disability NGOs for comments
- Review comments and finalise report

³ The New Zealand Association of support services and community development in Mental Health

⁴ Formerly IHC Services

The project's phases are illustrated in the diagram.

Diagram 1: Project Phases



5. Background

5.1. Government direction

The government's objectives for services for people with experience of mental illness and people with disabilities as well as for workforce development in these sectors are outlined in *Te Tahuhu*⁵, the New Zealand Disability Strategy⁶ (NZDS), and the National Health Committee's report⁷ *'To Have an 'Ordinary' Life'*.⁸

The government's objectives must be achieved in a way that ensures service provision is sustainable over the long term.⁹ This includes ensuring systems or organisations have the capacity to provide appropriate infrastructure such as workforce, facilities and equipment, and be innovative and respond to emerging needs.

Across the three documents the common themes are:

- Growth of the consumer voice
- Recognition that services must be built around the needs of the people who use them (person-centred services)
- Developing the competence of the workforce and services, particularly cultural competence

The increasing recognition of the impact social and economic factors including employment, poverty and housing have on peoples' mental wellbeing and ability to participate in society, has led to an increase in focus in intersectoral work.

The Health Workforce Advisory Committee (HWAC) provides strategic advice to the Minister of Health on the health and disability workforce that complements other government strategies. The vision for the health workforce is grounded in a national vision for health and disability services which sees these as a whole

⁵ *Te Tahuhu – Improving Mental Health 2005 – 2015: The Second New Zealand Mental Health and Addiction Plan*, Ministry of Health 2005

⁶ Minister for Disability Issues, 2001

⁷ Note, the NHC report is not government policy, but advise to Government.

⁸ National Advisory Committee on Health and Disability 2003

⁹ Cited; *'Report of the Working Party on Support Services for Older People with Disabilities'* February 2005.

rather than a set of separate services. HWAC has identified that the emphasis for workforce development requires a shift from “designing services for local people to one of designing local services with local people” with full stakeholder involvement. The goal for workforce development is described in the Recommendations Paper to the Minister of Health, 2003.

5.1.1. Te Tahuhu

Te Tahuhu broadens the government’s interests in mental health from people who are severely affected by mental illness to all New Zealanders, while acknowledging the need to ensure people with the highest needs can access specialist services.

The plan sets out ‘the leading challenges or action priorities’ for the mental health and addiction sector for the next ten years. One of the challenges is ‘Workforce and Culture for Recovery’. It aims to ‘build a workforce and foster a culture among providers that supports recovery, is person centred, is culturally capable and delivers an ongoing commitment to assure and improve the quality of services for people.’¹⁰

Te Tahuhu acknowledges the importance of a knowledgeable, skilled and recovery focussed workforce and that opportunities now exist for new disciplines and roles to emerge as professional boundaries continue to evolve.

5.1.2. New Zealand Disability Strategy (NZDS)

NZDS has the vision of a society that highly values the lives and continually enhances full participation of disabled people. It provides an enduring rights-based framework to ensure that government departments and agencies consider disabled people before making decisions.

The strategy identifies 15 objectives, underpinned by detailed actions, aimed at advancing New Zealand towards being a fully inclusive society.

The objectives relevant to workforce development are:

- Create long-term support systems centred on the individual (Objective 7)
 - Action: Develop a highly skilled workforce to support disabled people.
- Promote participation by disabled Maori (Objective 11)
 - Action: Train more Maori disability service provider professionals and increase the advisory capacity of Maori.
 - Action: Support training and development of trilingual interpreters for Deaf people.
- Promote participation of disabled Pacific peoples (Objective 12)
 - Action: Support disability workforce development and training of Pacific peoples, by training Pacific peoples as providers of disability information and services for their local communities.
 - Action: Support training and development of trilingual interpreters for Deaf people.

5.1.3. To Have an ‘Ordinary’ Life

¹⁰ Page 12, *Te Tahuhu*

The report addressed adults with an intellectual disability and its findings were that although there had been a committed and well intentioned effort to move away from institutional-based services for people with an intellectual disability, service purchasing and delivery have failed to keep up with international best practice.

The most critical component for the future was considered to be making the shift to a new way of thinking that focuses on individuals and their aspirations as citizens and how these can be achieved.

The Committee noted workforce related concerns and these were:

- Extremely high staff turnover of some services and the resulting impact on service quality.
- Causes for turnover including pay and conditions, lack of training and poor career structure.
- Lack of cultural competency.
- The pivotal role support workers play in the lives of adults with an intellectual disability.
- The impact that the skill and ability of support workers has.

The Committee made a recommendation to 'strengthen the disability workforce'.

Although all changes were to be made within current budget allocations, it is expected that over time the report will help lead the shape and design of services for people with an intellectual disability in New Zealand.

5.1.4. Health Workforce Advisory Committee (HWAC)

The New Zealand Workforce Framing Future Directions (HWAC, 2002) resulted in a recommendations paper made to the Minister of Health in 2003 for strategies to develop health and disability workforce capacity.

HWAC identified an overall goal to recruit, train, employ, deploy and retain a health and disability workforce appropriate to meet the diverse needs of all New Zealanders in the short, medium and long term. To implement this goal, seven priority areas were identified:

- To address the health workforce implications of the Primary Health Care Strategy.
- To progress the development of healthy workplace environments.
- To facilitate the evolution and further development of health workforce education.
- To progress Maori health workforce development.
- To facilitate evolution and development of the health and support workforce to better meet the needs of disabled people.
- To facilitate the enhancement of health workforce research and evaluation capability.

The recommendations paper identified that NGOs are often at the cutting edge of innovation and development in the provision of both health and disability and education services. NGOs are considered to be well placed to

innovate in ways that main-line services cannot easily do through locally driven health sector development. This requires activities that aim to:

- Engage and network health practitioners and researchers with local communities.
- Respond to local ideas and aspirations.
- Engage the local providers of education and research services.
- Encourage and facilitate teamwork.
- Improve communication and build bridges between organisations and practitioners.
- Share experience and learning.
- Contribute to the re-design of services and the workforce.
- Contribute to policy development, locally, regionally and nationally.

5.2. Recent developments

Recent developments that have impacted on the environment NGO services are delivered within include:

5.2.1. Service provision

- The expectations of consumers and families and whanau are increasing.
- Increasing diversity of service users and community needs.
- New Zealand's population is ageing. Over time the people using NGO services will increasingly have age related support and health needs.
- Developments in technology such as environmental supports and personal assistance devices have enabled some people to continue to be supported by an NGO and avoid admission to a hospital.
- NGOs are successfully supporting more people with increasingly complex needs.
- NGOs are diversifying and some are developing specialist skills e.g. the Ministry of Health's strategy for meeting the needs of people with intellectual disabilities and high and complex behavioural needs led to the development of Regional Intellectual Disability Support Accommodation Services.

5.2.2. Funding

- The establishment of 21 District Health Boards (DHBs) responsible for determining the needs of their community and planning and delivering services, including mental health and older people's needs.
- Devolution of funding for older people's services from the Ministry of Health to DHBs, separating out funding for disability support services.¹¹
- NGOs have found it increasingly difficult over recent years to operate within the financial constraints and in a market driven economy.
- Legislation such as the HPCA Act 2003, The Health and Disability Services (Safety) Act 2001 Health and Disability Sector Standards 2001 requirements, and the Holidays Act 2003 and Holidays Amendment Act 2004 have been introduced without funding to meet the associated costs.

¹¹ The Ministry of Health continues to be responsible for planning and funding disability support services.

5.2.3. Labour market

- Labour shortage leading to difficulties across the sector recruiting and retaining a skilled workforce.
- The Report of the Ministry of Health's Quality and Safety Project¹² found that the primary workforce issue for disability services was the need for pay and conditions that would facilitate staff recruitment and retention.
- The development of more specialist NGO services has led to the need to somewhat change and increase the skills of the workforce.
- The MECA¹³ has created additional recruitment and retainment difficulties for NGOs. For example MECA salary rates for Registered Nurses are on average twenty percent higher than those offered in the NGO sector. Additionally, the MECA provides for paid professional development leave (up to 24 hours per year per FTE), portfolio development leave (up to 16 hours per year per FTE) and a level of practice allowance (\$2,500-\$4,000 per year per FTE).

5.3. Current situation

5.3.1. Number of NGO providers

The exact number of NGO providers in the mental health and addiction services and disability sectors are unknown, as there is no national database¹⁴.

NGO providers may have a number of contracts with a variety of government agencies. These are not representative of the number of consumers served by each NGO. In addition, there may be more than one contract held to meet the needs of an individual consumer.

From information available¹⁵, it is estimated that there are currently 700¹⁶ Disability Support NGO providers¹⁷ in New Zealand serving approximately 30,000 – 33,000 consumers.

Individual DHBs have some data related to mental health and addiction services contracts but for the reasons already outlined, it cannot be determined how many contracts there currently are.

Platform is developing a national database of mental health and addiction services NGOs. There are currently 420 providers on this database. Due to the nature of NGO contracting this will also overlap with Disability provision. Even with the development of this database it may not be possible to accurately identify the number of consumers served by these contracts as

¹² Report of the Quality and Safety Project, Ministry of Health 2004

¹³ DHB/NZNO Multi-employer Collective Employment Agreement

¹⁴ Current data collection may result in providers being counted multiple times dependent upon contractual agreements or singularly when a 'parent' company holds a contract but it is delivered under many smaller providers owned by that 'parent' company.

¹⁵ Information provided by the Disability Directorate, Ministry of Health, 2005.

¹⁶ Represented by 1200 contracts

¹⁷ Many NGOs are small family trusts -through to a number of regional and national organisations.

contracts are configured differently. For example, capacity funding, bed funding, funding by FTEs.

5.3.2. Health Professionals Employed in NGOs

The number of Health Professionals employed in NGOs has not yet been determined¹⁸. However, it is known that the number is small proportional to the number of consumers served by NGOs. This fits with the philosophy and principles of support and recovery for people using NGO services based on a social model rather than a medical model.

Health Professionals are employed both in NGOs where it is contractually required as well as some. NGOs also employing Health Professionals where they have determined there is a need to do so.

NGO providers have been steadily increasing the number of Health Professionals employed. Reasons include:

- Increasing delivery of specialist services
- The effects of an ageing population
- An increased focus on competence in primary health care in response to the findings of the National Health Committee that determined personal health needs not having been fully addressed
- NGOs providing intensive community provision that supports more people with increasingly complex needs

5.3.3. Growth of NGOs

There has been significant growth of NGOs in the past ten years as a result of de-institutionalisation and the evolution of a contract culture and community focus.

Approximately one third of all public mental health service purchasing funds are spent on NGOs¹⁹.

5.4. Summary

It is anticipated that NGOs will continue to grow and employ more health professionals to meet the changing health, mental health and addiction services and disability needs of their consumer groups. The growth of the health professional workforce needs to be cognisant of the social model of disability.

Contractual and legislative requirements have meant that NGOs need to operate as business entities with a well-developed infrastructure. The NGO sector has and continues to incur significant compliance costs.

The labour market is tight and funding constraints have negatively impacted on the ability of the NGO sector to respond to market forces and attract and retain staff.

¹⁸ With the exception of data from the Psychologists Workforce Report 2003 (5.3% of Psychologists are employed in NGOs).

¹⁹ As reported by the Ministry of Health, 2004.

6. Health Practitioners Competency Assurance Act (2003)

The overall goal of the HPCA Act was to establish a mechanism to protect the health and safety of members of the public. It requires a health professional to demonstrate competence in their scope of practice before an annual practising certificate may be issued.

The HPCA Act significantly changed the role of registering authorities. They now ensure quality in practitioners by ensuring ongoing competence; expanding the application of quality assurance provisions to all health practitioners and through the development of professional standards. There are currently 15 responsible authorities under the HPCA Act, which include the Nursing Council of New Zealand, Occupational Therapy Board, Physiotherapy Board and Psychologists Board.

6.1. Responsible authorities (Registering Authorities)

Registering authorities currently:

- Prescribe the qualifications required for scopes of practice.
- Accredite and monitor educational institutions and programmes.
- Authorise registration of health professionals²⁰ and maintain registers.
- Consider and issue annual practising certificates.
- Review and promote the competence of health practitioners.
- Accredite and set programmes to ensure ongoing competence.
- Receive and act on information from health practitioners, employers and the Health and Disability Commissioner about competence of health practitioners.
- Notify employers, ACC, Ministry of Health and Health and Disability Commissioner that practice may pose risk of harm to the public.
- Consider cases of health practitioners who may be unable to perform the functions required for the practice of the profession.
- Set standards of competence and ethical conduct.
- Liaise with other authorities appointed under the Act about matters of common interest.

6.2. Concerns from NGOs

NGOs have identified a number of current and possible future concerns related to the HPCA Act. Common concerns are:

- What impact the HPCA Act may have on the mental health and addiction services and disability support worker role. For example, whether a health professional can continue to be employed into a support worker role and whether that person requires an annual practising certificate under the HPCA Act.
- Whether health professionals employed in the capacity as team leaders or managers are subject to the HPCA Act and require an annual practising certificate.

²⁰ Covered under the HPCA Act

- How broad competencies such as mentoring, developing staff and team building that are highly valued by NGOs are treated by registering authorities as a measure of professional competency.
- What are the risks to employers (NGOs) and employees where staff do not hold an annual practising certificate but are on a professional register.
- Costs of compliance for employees and how this may impact on the employer.

Scenario One:

“We employ a Registered Nurse as a Team Leader in our Trust. Her job description does not specify that she needs to be a Registered Nurse, but it is stated that having a background as a Health Professional is desirable. Should we now acknowledge this background skill by requiring that she holds an annual practising certificate (APC) as she would obviously use knowledge as a Registered Nurse when she interacts with our clients and other staff we employ?”

6.3. Interviews with Registering Authorities

Interviews were held with the NZ Nursing Council, Psychologists Board, Physiotherapists Board and Occupational Therapists Board. Currently each of these registering authorities are further developing and refining their requirements in response to the HPCA Act, and these will result in changing requirements for registered health professionals. Registering authority requirements for competency and practice differ.

Common responses from each registering authority interviewed were:

- It is the responsibility of the individual who is registered with the registering authority to determine whether they are working in the scope of practice and therefore require an annual practising certificate and to meet the competence and practice requirements of the registering authority. (How an individual should determine this varies between registering authorities.)
- Costs of compliance are unknown and are currently not measured.
- There is no expectation by any registering authority that an employer would assist an employee with meeting the costs of compliance for an annual practising certificate. This is an employer, employee matter.
- If an employer requires an employee to hold an annual practising certificate, the employer has a responsibility to ensure that the employee does in fact hold a current practising certificate.
- Individuals who determine that they are not working in the scope of practice and therefore are not required to hold an annual practising certificate should remain on the register with the registering authority, as it is not necessary to relinquish registration.
- If a registering authority receives a complaint in relation to an individual on the register this would be investigated. If the person concerned did not hold an annual practising certificate a determination would be made in relation to this. If the person is not registered consideration must be given as to whether or not the person was working in the scope of practice and should therefore have been registered with a current practising certificate. If the person is

practising illegally, the matter would be considered by the Health Practitioners Disciplinary Tribunal.

6.4. NZ Nursing Council

Scopes of practice have been defined by the NZ Nursing Council and include:

- Registered Nurse
- Nurse Practitioner
- Nurse Assistant
- Enrolled Nurse

It is important to note that registered nurses can work in mental health and addiction services unless they have a condition on their scope of practice which precludes them from doing so (for example may only work in general or obstetric).

The scope of practice of the Enrolled Nurse requires that Enrolled Nurses work in areas where there are predictable health outcomes and not in mental health and addiction services. The Ministry of Health and the Nursing Council issued a directive in 2003 that clearly states this view of the Enrolled Nurse role not including mental health.

6.4.1. Applying for an annual practising certificate

Competencies for each scope of practice have been defined and require the person applying for an annual practising certificate to self-assess competencies in the area in which they are currently practising.

Each person applying for an annual practising certificate is required to have completed at least 60 days or 450 hours of nursing practice within the last three years in New Zealand. Additionally, there is a requirement that at least 60 hours of professional development has also been undertaken in the last three years.

Professional development must be relevant to the nurse's practice and be dated and verified. Professional development can be undertaken through a variety of different learning activities such as degree papers, short courses, seminars, conferences or in-service education

In determining whether an annual practising certificate is required, the following considerations are made:

- Whether the position the nurse is employed in requires a nursing qualification.

Where the job description or employment contract require the employee to hold a nursing qualification then an annual practising certificate is required.

Where the employer states that it may be desirable to hold a nursing qualification and the person is employed then a determination needs to be made as to whether the person is nursing or not (as outlined below).

Where the employee happens to hold a nursing qualification but the position does not require this qualification, then it is up to the individual concerned to determine whether they are nursing or not and therefore whether they need to hold an annual practising certificate.

- Whether the person is nursing or not.

For a registered nurse, this includes whether nursing knowledge and nursing judgement to assess health needs, provide care, advise and support people to manage their health are being used.

For a Nurse Assistant this includes assisting a registered nurse by performing delegated interventions from a nursing care plan to provide care and comfort for individual and groups, assist and support clients with activities of daily living, observing and reporting changes in an individuals condition or behaviours and to safeguard the dignity and promote independence and health and safety.

A practising certificate may be issued to a nurse where the nurse is not required to have a nursing qualification by their employer if the nurse is using their knowledge or skills in their position.

If a nurse is working with clients and using their nursing qualification then they will require an annual practising certificate. Where a nurse is overseeing or supervising another nurse's practice, a practising certificate will also be required (this is not the case if the nurse is supervising caregivers and in themselves not holding themselves out to be a nurse or providing advice in the capacity as a nurse).

Where the nurse is working outside the direct contact of a client (with the exception of supervising another nurse) then having an annual practising certificate is considered to be optional unless they require a nursing qualification to be employed in their position.

The NZ Nursing Council considers applications for annual practising certificates and may determine that a person who has applied for an annual practising certificate is not in fact nursing so will have their application disallowed.

For example, a nurse employed as a mental health support worker could be considered not to require an annual practising certificate. The basis for this decision relies on the fact that they are not nursing as their job description does not require an annual practising certificate or nursing duties to be undertaken and they do not undertake therapeutic interventions or assessments. A clear distinction is made between undertaking tasks that in themselves do not constitute nursing practice. Any individual can undertake the task of medicine administration. But if a nurse were undertaking medicine administration, their level of knowledge would allow them to recognise issues and this would result in differing accountability and could constitute nursing practice. Therefore that person may be required to hold an Annual Practising Certificate.

6.4.2. Employers responsibilities

The Nursing Council expects employers to be conversant with the scopes of practice and determine whether a nursing qualification is required for any

given positions that they employ into. If a nursing qualification is required then the employer should monitor that the employee does hold a current annual practising certificate.

In the event that a nurse is employed in a non-nursing position, the Nursing Council holds no formal policy that requires the nurse to remain on the register, however the Nursing Council holds a view that the nurse should remain on the register.

It was suggested that where a nurse was employed in a non-nursing role it would be prudent for the nurse concerned to write to the Nursing Council outlining that they were currently employed in a capacity that does not require them to practice as a nurse and as such they would not be seeking an annual practising certificate.

Scenario Two:

A registered nurse is newly employed as a Support Worker. Her employer has determined that she does not require an Annual Practising Certificate (APC) and she agrees with this. She should then write to the Nursing Council stating that she no longer requires an APC. She also needs to ensure that her activities are those of a support worker and that she does not undertake any activity where she holds herself out to be a nurse. Additionally, the employer should ensure that her job description clearly reflects her role as a support worker and does not include any reference to registered nursing activities.

6.4.3. Complaints

Nurses remaining on the register may be subject to investigation by the Health Practitioners Discipline Tribunal if a complaint is received. This would include a determination as to whether an annual practising certificate should have been applicable.

Scenario Three:

A Registered Nurse is employed as a Support Worker. Part of her responsibilities is to undertake medicine administration. As she is employed as a Support Worker and is not required by her employer to hold an Annual Practising Certificate, she is administering the medications in her capacity as a Support Worker. However, what would be the implications if she made an error that resulted in a complaint being received by the Nursing Council?

6.4.4. Cost

The Nursing Council has not determined costs of compliance for nurses to maintain an annual practising certificate but considered these to be minimal.

Where clinical oversight or competency assessment is required of a nurse, an appropriately trained and qualified nurse of equivalent or higher status should

undertake this. Enrolled Nurses and Nurse Assistants must work under the direction and supervision of a Registered Nurse. Nurses who work in isolation should seek peer supervision.

In the event that a nurse has not been practising and therefore not holding an annual practising certificate they would be subject to competency requirements of the Nursing Council when they again applied for an annual practising certificate. Nursing Council requirements vary in relation to the length of time out of practice and may result in the requirement to undertake a competency assessment programme. Competency assessment programmes are prescribed and approved by the Nursing Council. Current programmes are commonly of six weeks duration. Costs are variable for these programmes averaging \$3,000 when undertaken at technical institutes or universities/polytechnics.

6.5. Psychologists Board

Scopes of practice defined by the Psychologists Board include:

- General Scope of Practice – Psychologist
- General Scope of Practice – Trainee or Intern Psychologist
- Vocational Scope of Practice – Clinical Psychologist
- Vocational Scope of Practice – Educational Psychologist

6.5.1. Progress and work underway

The Psychologists Board has not yet prescribed a mandatory continuing competence programme. Competencies for the scopes of practice prescribed by the Board are currently being drafted.

6.5.2. Current requirements

Each person applying for an annual practising certificate must sign a statutory declaration stating that they believe they are competent to practice in accordance with their scope of practice. The fee for a practising certificate is \$455.00 including GST.

No person can claim to be a psychologist or state or do anything that suggests they practice or are willing to practice psychology unless the person is a registered psychologist and holds a current practising certificate. If a psychologist is employed by a NGO a determination should be made as to whether the person is using their skills and knowledge as a psychologist and therefore practising as a psychologist. Skills and knowledge might relate to education, supervision or practice. It is irrelevant what their title is (e.g. Team Leader or Psychologist).

6.6. Physiotherapy Board

A description of the practice of physiotherapy has been developed by the Physiotherapy Board to aid implementation of the HPCA Act. The practice of physiotherapy is described as including:

“ assessing, diagnosing, treating, reporting or giving advice in the capacity of a physiotherapist, using the knowledge, skills, attitudes and competence initially attained for registration as a physiotherapist in New Zealand and built upon in postgraduate and continuing physiotherapy education and wherever there could be an issue of public safety;

advertising, holding out to the public, or representing in any manner that one is authorised to practice physiotherapy in New Zealand”

(Recertification guidelines, Physiotherapy Board, April 2005, p 4)

6.6.1. Scopes of Practice

Scopes of practice defined by the Physiotherapy Board include:

- General Scope of Practice
- Special Purpose Scope of Practice – Visiting Physiotherapy Presenters
- Special Purpose Scope of Practice – Postgraduate Physiotherapy Students

6.6.2. Annual Practising Certificates

Practising Physiotherapists required to hold an APC include:

- Physiotherapy service managers/advisors
- Advisory physiotherapists
- Physiotherapy teachers/educators
- Locum and part-time physiotherapists (even if only working for a short period)
- Physiotherapy accreditation surveyors
- Physiotherapists performing assessment and treatment, and/or advising on management of (e.g.) sports teams, clients in rest homes, children in schools, community groups for people with disabilities (whether voluntary or not)
- Presenter and participant at "hands-on" physiotherapy courses
- Physiotherapists working as sales representatives selling physiotherapy products, i.e. when the job description/person specification requires a physiotherapist.

If someone wants to call themselves a physiotherapist, and holds themselves out as a physiotherapist or performs an activity or service that forms part of physiotherapy then they must hold an annual practising certificate.

When applying to renew their annual practising certificate, physiotherapists are required to sign a declaration that they are participating in and meeting the requirements of the recertification programme. To maintain the integrity of the programme, the Board will conduct audits (a five- percent sample) of selected practitioners.

There are ten general registration competencies as summarised below. These form the basis against which applicants for registration, be they NZ trained or overseas qualified, are measured in terms of eligibility for registration and, by extension, competence to practice. Physiotherapists draw on these competencies to enable them to practice safely. It would be highly likely that a physiotherapist would use several of the general competencies if

employed in a NGO as a Team Leader or a Mental Health Support Worker. They would therefore require an annual practising certificate.

An annual practising certificate fee is \$333.00 per year. There is a maintenance fee of \$45 per year to remain on the register in a non-practising status.

Diagram 2: General Competencies - Physiotherapy

General Competencies

GENERAL COMPETENCIES									
One	Two	Three	Four	Five	Six	Seven	Eight	Nine	Ten
Analyse the pure, behavioural and social science bases of physiotherapy and integrate this knowledge into practice	Analyse consumer(s) health needs and wants	Plan physiotherapy management	Implement safe and effective physiotherapy management	Communicate effectively	Provide education	Apply management principles to physiotherapy practice	Conduct research	Develop individual professional growth	Demonstrate accountability to the public and profession

*From: Registration Requirements: Competencies and Learning Objectives
The Physiotherapy Board of New Zealand, Wellington 1999
This document is downloadable as a PDF file from our website
www.physioboard.org.nz*

6.6.3. Recertification

Registered Physiotherapists wishing to renew their annual practising certificate are required to complete a minimum of 120 hours of continuing professional development over three years (based on a three year cycle which started in January 2005) of which at least 20 hours occur in a given year.

Continuing professional development activities must comprise all four learning categories. No one category can make up more than 60 hours of the 120 hours. The four learning categories are work-based learning, professional activity, formal/educational learning and self-directed learning.

6.6.4. Responsibilities

Employers have a responsibility to establish that the physiotherapist they are employing is registered and holds a current annual practising certificate. However, it is always the individual's responsibility to apply for and obtain an annual practising certificate.

6.7. Occupational Therapy Board

There is one scope of practice defined by the Occupational Therapy Board:

Occupational therapists are registered health professionals, who use processes of enabling occupation to optimise human activity and participation in all life domains across the lifespan, and thus promote the health and well-being of individuals, groups, and communities.

These life domains include: learning and applying knowledge; general tasks and demands; communication; mobility; self-care; domestic life; interpersonal interaction and relationships; major life areas; and community, social and civic life.

Enabling occupation incorporates the application of knowledge, principles, methods and procedures related to understanding, predicting, ameliorating or influencing peoples' participation in occupations within these life domains.

The Occupational Therapy Board is considering ways of defining the practice of occupational therapy to assist interpretation of whether or not a person is practising in the general scope of practice. This may be helpful for persons in non-traditional roles.

6.7.1. Competence Framework

The Occupational Therapy Board has developed a continuing competence framework for recertification (CCFR) to provide a mechanism for practising occupational therapists to demonstrate their competence in the general scope. Occupational therapy practice includes non-traditional roles, management and education/research. Occupational Therapists are able to record and access their competence plan on-line.

The continuing competence framework requires that practitioners demonstrate reflective practice in each of the seven core competencies for registration²¹:

1. Competence Plan

- An annual competence plan that consists of a self-assessment of competence, identified objectives, and related activities, which are recorded and evaluated on a Continuing Competence Development Plan and Record.
- A review and evaluation of performance and identification of needs in relation to knowledge, skills, judgement or diligence, based on the 7 core areas of competence:
 1. Implementation of Occupational Therapy
 2. Safe, Ethical and Legal practice
 3. Culturally Safe Practice
 4. Communication
 5. Management of Self and People
 6. Management of Environment and Resources
 7. Continuing Professional Development
 - At least one objective for each of the 7 core competency areas to be identified and entered on the Continuing Competence Plan and Record.
 - A plan to be created for achieving objectives.

²¹ Refer to the Competencies for Registration as an Occupational Therapist on the OTBNZ website. www.otboard.org.nz

- A record of activities undertaken to achieve objectives.
 - Critical reflection to ascertain whether a change in practice has occurred as a consequence of professional development activities undertaken.
 - Professional supervision including maintenance of a supervision log (not necessarily an Occupational Therapist).
2. Continuing Competence Recertification portfolio
 3. Self-declaration of competence to practice
 4. Third party declaration made by a person who is a registered occupational therapist (not necessarily at their place of employment)
 5. Recertification Audit of up to 20% of individual practitioners each year.

The Code of Ethics for Occupational Therapists mandates that all occupational therapists receive effective supervision relevant to their work setting.

There is an expectation that goals and activities are integral to everyday practice. There may be aspects of professional development undertaken but the main focus is on activities of daily practice and the practitioners' critical reflection on these. These are documented on a plan and record maintained on-line and supervisors are invited to comment on progress of achievement. The framework is endorsed by a registered occupational therapist for recertification every year.

Practitioners can expect to be audited on-line at least once every five years.

Evidence of achievement of stated goals is kept in the CCFR portfolio. There are no expectations of minimum hours or points or activities being undertaken which are external to the workplace. Practitioner needs identified in the goals determine the range of activities to be undertaken.

The Occupational Therapy Board considers that there are overlaps between core areas of competence within certain positions held by members of different health professions. This overlap makes it possible for another health professional to provide professional supervision of an occupational therapist.

Any occupational therapist practising within the General Scope of Practice: Occupational Therapy, or employed because of their occupational therapy qualification within the NGO sector would require an annual practising certificate. The framework and competencies are sufficiently broad to enable all practitioners to demonstrate continued competence.

There is an annual fee of \$80 to remain on the register and \$400 for an annual practising certificate.

6.8. Other Stakeholders

6.8.1. New Zealand College of Mental Health Nurses Inc

The New Zealand College of Mental Health Nurses reports that over the last decade there has been a trend for mental health nurses to be employed in generic mental health worker roles where their employer defines them as not practising nursing.

The position of the College is that if a person is using their professional expertise and knowledge they should retain an annual practising certificate even if their employer doesn't require them to do so. This is based on the view that nurses are bound by an ethical framework and have a range of competencies that make them valuable employees. Where a nurse interacts with clients or supervises other health professionals they can be expected to be practising with the knowledge and skill of a nurse that underpins their practice and decision making. If this person remains on the register, they are also legally accountable and must act with a duty of care. This is different and distinguishable from that of a non-nurse who could be employed in the same role.

Scenario Four:

A community support worker may be accessing accommodation and establishing relationships in the community. If this support worker is a Psychiatric Nurse then they are undertaking this work on the basis of their knowledge, skills and ethical responsibilities of a nurse which are different to that of a non-nurse as the non-nurse has not had exposure to the same level of training. Therefore, this nurse should retain an Annual Practising Certificate.

The College is also concerned that where a nurse is employed in a position utilising their skill and expertise but it has been deemed that they have not practiced for three years (and have not held an annual practising certificate); they will be required to undertake a competency assessment to regain their annual practising certificate.

Scenario Five:

A registered nurse working as a Care Coordinator for the past five years and deemed not to be practising nursing, applies for a Team Leader position where they are supervising nurses and required to hold an Annual Practising Certificate. They are now required to undertake a six-week competency assessment programme as part of the re-entry process to nursing required by the Nursing Council before an Annual Practising Certificate will be issued. This nurse had not however exempted herself from her professional accountabilities whilst working as a Care Coordinator.....

Registering authorities need to be aware that definitions of practice should be applicable to health professionals where the role, size and complexity of service are not traditionally defined but constitute practice by virtue of the skills, knowledge and ethos the person brings to the position they fulfil.

7. Cost of Compliance

The HPCA Act has created an imperative for health professionals to meet specific competencies for registration and annual practising certificate renewal. Registering authorities and the Ministry of Health have not determined the cost of compliance for

health professionals to maintain their competency and meet the requirements for an annual practising certificate.

The general position of registering authorities was one that health professionals were likely to have been undertaking professional development prior to the introduction of the HPCA Act. It was also noted by registering authorities that some activities associated with professional development do not incur a cost (for example self-directed learning such as journal reading). Conversely, the average cost of a post graduate programme paper is between \$700 and \$1,000.

The cost of professional development lies with the individual health professional, but employment agreements such as the MECA has meant that there is an increasing expectation from health professionals that there will be employer support to meet the costs of professional development. The MECA requires that DHB employed nurses covered under the agreement receive between \$2,500 and \$4,000 toward their professional development in addition to paid leave and a practice allowance per annum.

NGOs consider that there is increased pressure on employers to provide professional development programmes and education funding to support health professionals. This is as a direct result of the HPCA Act provisions and the need to retain staff who would receive professional development support if employed by a DHB and covered by the MECA.

The New Zealand Nurses Organisation is actively seeking pay parity for nurses in line with the MECA throughout the primary health care sector. Recently, DHB employed psychologists were awarded a pay increase in line with the MECA as they also sought parity with this agreement. This obviously impacts on NGOs' ability to recruit and retain staff when funding constraints limit their ability to compete with DHBs.

Some NGOs are already having to provide more training to staff as a result of the trend to provide services to people with increasingly complex needs despite static funding in the sector. This position is unsustainable over time.

Employers are also obliged to provide training to health professionals to ensure maintenance of competencies to comply with contractual obligations such as ACC and DHB contracts.

Employer training costs per year for health professionals has been estimated to be between \$700 and \$2,000 based on the NGO providers interviewed as part of this project report.

The Primary Health Care and Community Nursing Workforce Survey (2001) reported that despite educational opportunities being available to nurses, there was a significant gap between availability and opportunity. The main barriers that nurses face in accessing educational opportunities were finance, time and availability for relief cover, all of which impact on the employer.

Clinical career pathways were identified as one strategy to improve the education status and retention of nurses in the Primary Health Care sector. A survey undertaken in 2003 by the Ministry of Health found that less than fifty percent of those surveyed did not have such a programme or pathway within their organisation.

Scenario Six:

“The cost of compliance for the NGO provider as employer includes costs relating to the Annual Practising Certificate, professional development, and professional supervision and even competency assessment. I have to back fill positions whilst staff members are undertaking additional training and we assist with payment of that training. As an employer I want to take a consistent approach to workforce development. Now I am faced with making a distinction between those who are registered and holding an Annual Practising Certificate and those who are not. I do not feel I have a choice not to support the requirements of staff covered by the HPCA Act because DHBs do and I need to retain my staff...”

8. Analysis

8.1. Contracting impacts

If NGOs wish to employ health professionals, they need to be able to compete in the labour market for what is essentially a scarce resource. To do this, rates of pay and conditions of employment need to match that of other employers such as the DHBs. More funding for the sector needs to be sought before this objective could be achieved.

Where NGOs have employed health professionals into generically defined roles, and individuals may or may not require an annual practising certificate this now needs to be explicit. There are risks to the individual health professional working within the NGO sector where they do not hold an annual practising certificate as they are still legally accountable for any activity they undertake that could constitute practice.

8.2. Policy Impacts

District Health Boards New Zealand (DHBNZ) produced policy development guidelines for DHBs in relation to the HPCA Act (June, 2005). This identifies organisational policy impacts on:

- Recruitment
- Position descriptions / person specifications
- Employment agreements
- Annual practising certificate policies and process
- Secondary employment / private practice / conflict of interest
- Performance management
- Credentialing / competency frameworks
- Code of conduct
- Discipline / Dismissal
- Training
- Honorary Staff²²
- Personnel files
- Document retention
- Access to clinical records.

²² For example visiting associate professor

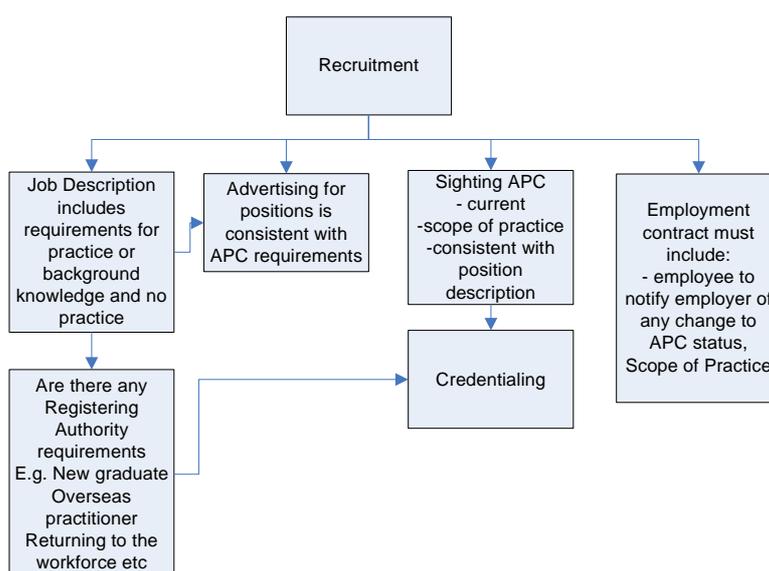
These policy impacts will also affect the NGO sector. Of greatest importance is the need to:

- Clearly define the role of health professionals within NGOs that states a requirement to hold an annual practising certificate and specify what constitutes practice in line with requirements of registering authorities. For example, core competencies such as cultural safety.
- Clearly define those roles that do not require them to be undertaken by a health professional or rely on previous knowledge gained as a health professional.
- Clearly define any roles that require a health background including health practitioner training but are not required to hold a current annual practising certificate. This will include the need to put processes in place to ensure that if the individual decides to apply for an annual practising certificate that it does not impact on the employer in any way²³.

Diagram 4: Defining APC requirements

Requires an APC	Optional APC?	No APC required
The position requires practice under the scope of practice of a registering authority.	Employer job description states professional qualification desirable and the employee wishes to retain an APC. Employer is indifferent.	Employer specifies the position does not require an APC as the position does not fall under a scope of practice of a registering authority.

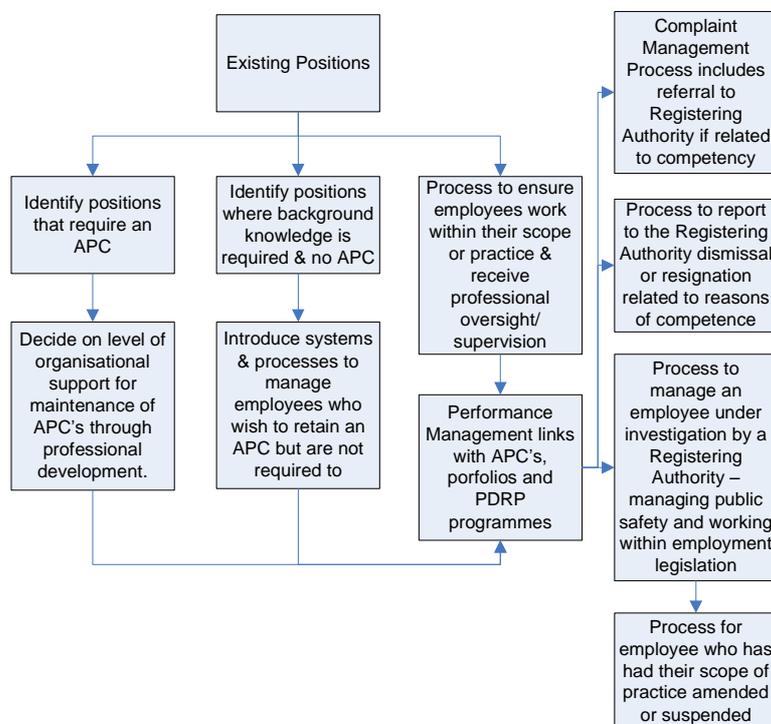
Diagram 5: Impact of HPCA Act on Recruitment for NGO providers



²³ For example risk in relation to a complaint where an APC was found to have been required may affect ACC cover for the employer.

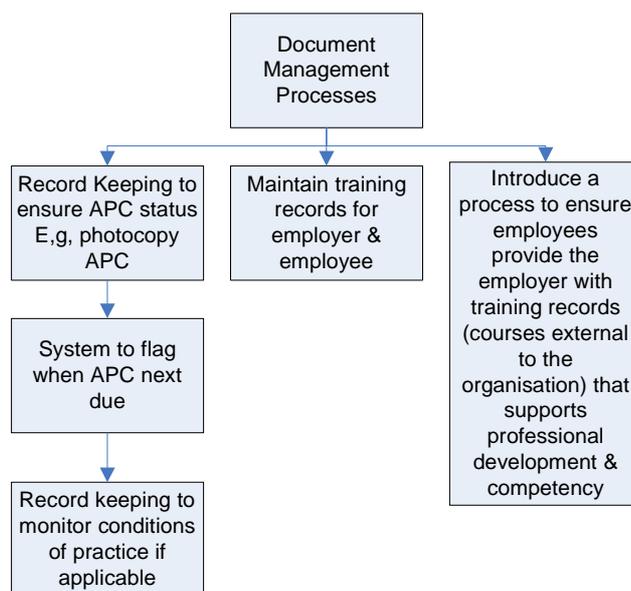
- Decide on the level of organisational support for employees to maintain an annual practising certificate where their substantive position does not require an annual practising certificate but the employee wants to maintain this.
- Decide on the level of organisational support for employees to maintain an annual practising certificate where they are required to hold an annual practising certificate. This should include shared organisational and individual responsibility for ongoing development that needs to be specified within the employment contract.
- Implement a professional development pathway that aligns with scopes of practice, educational requirements and training.

Diagram 6: Impact of HPCA Act on organisational support & knowledge of HPCA Act requirements



- Implement a system to retain professional development records that assists the employee in maintaining a record of professional development required by registering authorities.
- Monitoring of Annual Practising Certificates, undertaking credentialing and ensuring the employee is working within their scope of practice as defined by the registering authority.
- Be conversant with the requirements of the HPCA Act including competence to practice, scopes of practice, disciplinary procedures.

Diagram 7: Impact of HPCA Act on Document Management Processes



9. Influencing Registering Authorities policy

The Act allows registering authorities to operate flexible frameworks so it should be possible to add to the generic competencies specific to working in a NGO environment to these.

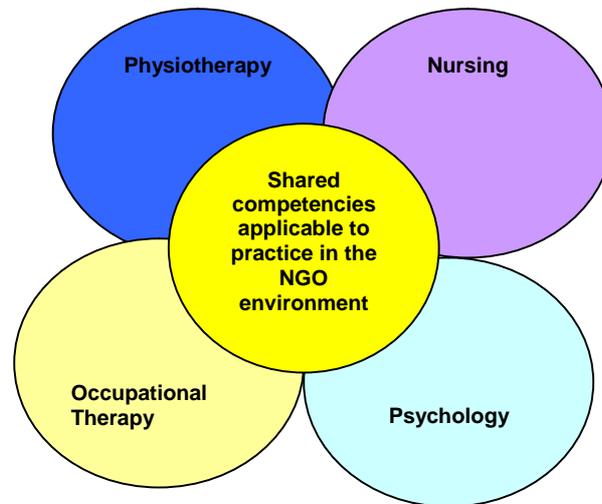
The advantages of this approach would be annual practising certificates are relevant to the NGO environment and staff are recognised for these competencies.

Registering Authorities need to work together to agree on shared competencies and how these impact on practice and the ability to hold an annual practising certificate.

The Occupational Therapy Board has already commenced work to support Occupational Therapists being able to retain an annual practising certificate when working in non-traditional roles. The Physiotherapy Board and Psychologists Board are also supportive of their health professionals working in non-traditional roles and retaining an annual practising certificate. The Nursing Council has a less clear cut position. The Nursing Council has developed within their competencies for the registered nurse scope of practice, competencies for nurses involved in management, education, policy and research. Nurses who are not in direct client care are exempt from two domains of clinical practice. This is important as nurses using their expertise to manage, teach, evaluate and research nursing practice can have these competencies reflected in their position descriptions²⁴. The Nursing Council has declined annual practising certificates to nurses working in non-traditional roles where a determination has been made that the health professional is not nursing despite working in a clinical or health service related environment which utilise their skills and knowledge.

²⁴ Refer to the competency document on the NZ Nursing Council website: <http://www.nursingcouncil.org.nz/competenciesrn.pdf>

Diagram 8: Competency Overlaps of Health Professionals



10. Recommendations

These recommendations are summarised at the beginning of this paper. In this section further detail on each recommendation is provided.

1. Develop an NGO guide of registering authority requirements for health professionals working in the sector. The guide should include employer responsibilities and information specific to each registering authority.
2. Undertake a detailed cost analysis to ascertain the impacts of the HPCA Act on the NGO sector for both employers and health professionals. This should include analysis and future projections of the NGO health professional workforce. This work will be informed by the Auckland University Research Project scheduled to commence in 2006.
3. Encourage Registering Authorities to work toward standardisation of competency requirements or 'shared competencies'.
4. Consider developing a competency framework applicable to health professionals working in the NGO sector. This would interface with any standardisation of competency requirements as developed or required by registering authorities.
5. Work with District Health Boards and NGOs to access professional practice supervisors for health professionals employed in NGOs at no additional cost to NGOs or NGO employees. This would provide a cost effective means of ensuring NGO health professionals have access to professional supervisors and peer review that would not otherwise be readily accessible for smaller NGOs.
6. Consider different options for NGOs to develop a cost effective way of meeting compliance costs including a professional development programme that meets the needs of all health practitioners working within the NGO

sector. This may be addressed in part by the Auckland University Research Project and would interface with development of a competency framework.

7. Develop policies and processes that could assist NGOs to manage risk around the group of employees that may fall into an “optional APC” category.

11. Appendix One:

Health Practitioners Competence Assurance Act 2003 Overview

The main purpose of the Health Practitioners Competence Assurance Act 2003 ("the 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 was passed on 18 September 2003. 18 September 2004 is the date on which most of the provisions of the Act came into effect.

The Act covers all registered health practitioners and replaces a number of separate outdated acts.

The Act comprises 218 pages and is divided into 7 parts:

Part 1: PRELIMINARY AND KEY PROVISIONS, includes:

- unqualified persons must not claim to be a health practitioner
- health practitioners must not practise outside their scope of practice
- certain activities restricted to particular health professionals

Part 2: REGISTRATION OF, AND PRACTISING CERTIFICATES FOR, HEALTH PRACTITIONERS, includes:

- prescribed scopes of practice, qualifications, and experience
- registration of practitioners and authorisations of scopes of practice
- practising certificates

Part 3: COMPETENCE, FITNESS TO PRACTISE AND QUALITY ASSURANCE, includes:

- notification of practice below required standard of competence
- competence programmes and recertification programmes
- inability to perform required functions
- quality assurance activities

Part 4: COMPLAINTS AND DISCIPLINE, includes:

- referral of complaints and interim suspensions
- professional conduct committees
- Health Practitioners Discipline Tribunal
- Procedure and decisions of Tribunal, findings of Tribunal and recovery of costs and fines

Part 5: APPEALS

Part 6: STRUCTURES AND ADMINISTRATION

Part 7: MISCELLANEOUS PROVISIONS, CONSEQUENTIAL AMENDMENTS AND REPEALS, AND TRANSITIONAL PROVISIONS

General Information about the Act

The Act has regularised scopes of practice. Scopes of practice describe the contents of the profession. The scope of practice (text or the title of the scope of practice) is required to be endorsed on each practitioner's Practising Certificate. Every practitioner who practices must have a current practising certificate.

The Registrar (of the registering authority) will issue a Practising Certificate if they believe that there are no reasons to refer the application to the Board under section 27(1). The Registrar may decline to issue a practising certificate if satisfied that any information included in the application is false or misleading.

There are grounds set out in the Act under section 27(1) in which the Registrar must submit an application to the Board for its consideration. These include:

- a. the applicant has, at any time, failed to maintain the required standard of competence; or
- b. the applicant has failed to fulfil, or has failed to comply with, a condition included in the applicant's scope of practice; or
- c. the applicant has not satisfactorily completed the requirements of any competence programme that he or she has been ordered by the Board to complete; or
- d. the applicant has not held an annual practising certificate of a kind sought by the application within the 3 years immediately preceding the date of the application; or
- e. the applicant is unable to perform the functions required for the applicant's profession because of some mental or physical condition; or
- f. the applicant has not, within the 3 years immediately preceding the date of application, lawfully practiced the profession to which the application relates.

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 practices 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.

Health practitioners must not practice outside their authorised scope of practice.

Practitioners who were registered under previous legislation, are deemed to be registered under the HPCA Act.

Key Definitions from the Act

Health Practitioner or practitioner means a person who is, or is deemed to be, registered with an authority as a practitioner of a health profession.

Authority means a body corporate (the Psychologists Board) appointed by or under the Act that is responsible for the registration and oversight of practitioners of a particular health profession (e.g. psychologists).

Condition includes a restriction of limit. Conditions will be endorsed on practising certificates.

Layperson means a person who is neither registered nor qualified to be registered as a health practitioner. The Psychologists Board will have two or three laypersons appointed by the Minister of Health.

Practice a profession or **practice** means to perform services that fall within the description of a health profession.

Prescribed qualification means a qualification for the time being prescribed (under section 12) for a scope of practice.

Required standard of competence, in relation to a health practitioner, means the standard of competence reasonably to be expected of a health practitioner practising within that health practitioner's scope of practice.

Scope of practice means any health service that forms part of a health profession. The Act makes provision for the Director General of Health to review the operation of the Act as soon as practicable following the expiry of the period of 3 years, i.e. following September 2007.

12. Appendix Two

Participants to this report:

Marion Blake
Platform Incorporated

Carmel Daly
for IDEA Services

Wendy Rhodes
IDEA Services

Jane MacGeorge
Healthcare New Zealand

Mark Brown
NZCare Group Ltd

Sue Wolland
MASH Trust

Prue Sullivan
Richmond Fellowship

Jo Johnson
Te Whare Mahana Inc.

Lorna Murray
Challenge Trust

Anthony O'Brien
New Zealand College of Mental Health Nurses Inc

Frances Hughes
University of Auckland

Julian Inch
DHBNZ

Marilyn Rimmer
DHBNZ

Rhonda King
Disability Directorate, Ministry of Health

Geraldine Woods
Disability Directorate, Ministry of Health

Karen Crosby
Psychologist's Board

Jeanette Schlemmer
Occupational Therapy Board

William Whittaker
Physiotherapy Board

Marion Clark
Nursing Council of New Zealand

Vincent Bailey
Nursing Council of New Zealand

Christine Howard-Brown
Acqumen Quality Solutions
PO Box 27-361
Wellington