

Safe and effective practice

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Introduction

In recent months some confusion has arisen about the meaning of the term “safe and effective practice” and, in particular, whether differing or lower standards will be applied to those who enter the register other than by means of an approved UK qualification, for example, under the transitional arrangements (‘grandparenting’) or as international applicants.

A person’s capacity for safe and effective practice is established by meeting two criteria:

- the standards of proficiency; and
- the good health and good character requirements.

So far as the standards of proficiency are concerned, the Health Professions Order 2001 (‘the 2001 Order’) requires common standards of proficiency for safe and effective practice to be set for each part of the register. Therefore, regardless of how a person comes to the HPC seeking registration he or she must be able to meet the minimum standard for safe and effective practice of that profession, or establish that they have practised safely and effectively, before being admitted to the register.

Every applicant - whether a UK graduate, grandparenting, EU or international applicant - must also meet the good health and good character requirements.

The 2001 Order is unambiguous on this issue (although not always easy to read), as I hope the analysis below will help to show.

Analysis

Article 9(2)(b) of the 2001 Order requires that every person seeking admission to the register must satisfy the Education and Training Committee that he or she “*is capable of safe and effective practice*” in accordance with the requirements in Article 5(2).

Article 5(2)(a) in turn requires the Council to set “*the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice...*” and Article 5(2)(b) requires the Council to prescribe the “*good health and good character requirements*” which establish that an applicant “*is capable of safe and effective practice*”.

A person may be admitted to the register by virtue of holding an “*approved qualification*” or, during the two year transitional period, under the grandparenting arrangements.

Article 12 of the 2001 Order provides that a person will only be regarded as holding an approved qualification if they hold:

- a UK qualification which the Council has approved “*as attesting to the standard of proficiency it requires for admission to the [relevant] part of the register*”;
- in the case of an EEA national, an equivalent qualification recognised as such under the EC regime for mutual recognition of professional qualifications; or
- in the case of an international applicant, either a qualification which “*attests to a standard of proficiency comparable to that*” of an approved UK qualification or, if not has undergone additional training or experience to meet the “*requisite standard of proficiency for admission to... the register*”.

It should be noted that, although in practice courses for approved qualifications will deliver outcomes which exceed the standards of proficiency for safe and effective practice, the HPC’s legal powers are limited to ensuring that such courses meet those standards and no more. Article 15(1) provides for the Education & Training Committees to “*establish the standards of education and training necessary to achieve the standards of proficiency it has established under Article 5(2)*” and the Committee’s power to approve courses, and to refuse or withdraw such approval relates to the standards established under Article 15(1).

The transitional (“grandparenting”) arrangements are set out in Article 13 of the 2001 Order and grandparenting applicants must also be able to show that they meet the requirements for safe and effective practice. Grandparenting applicants will fall into two categories:

- those candidates who meet the “3 out of 5 year” rule, that is who have been wholly or mainly practising a relevant profession for three out of the five years ending when the register opens, who are required by Article 13(2)(a) to show that they have been engaged in “*lawful, safe and effective practice*”.
- those who do not meet the “3 out of 5 year” rule but may also be eligible for registration subject to undertaking additional training and experience to satisfy the Council that they have “*the requisite standard of proficiency*” for admission.

The requirement to be capable of safe and effective practice is an ongoing one and when renewing registration, a health professional is required by Article 10(2) to “meet the conditions set out in Article 9(2)(b)...”, that is satisfy the Education and Training Committee that he or she “is capable of safe and effective practice” in accordance with the requirements in Article 5(2).

On a connected point, whether a person is practising as a health professional is a question of fact and those in education, management or research may be regarded as being in practice for this purpose. However, as the safe and effective practice requirement is an admission standard which relates to clinical competence, all registrants must continue to be able to meet the standards of proficiency required of a newly qualified practitioner in order to remain on the register.

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