

Agenda Item 10

Enclosure 8

Paper ETC 8/03

Education and Training Committee

**REPORT ON INTERPRETATIONAL GUIDANCE FOR
STANDARDS OF PROFICIENCY**

from the Secretary

for discussion

29 January 2003

Dear Steering Group Member,

**UP-DATE ON STANDARDS OF PROFICIENCY PROJECT SINCE THE LAST
STEERING GROUP MEETING**

Preparatory to the workshop day on 6 February 2003 for the Standards of Proficiency professional groups, I wanted to give the Steering Group a detailed progress report on developments since the last meeting on 4 December 2002.

The directions agreed at that meeting, and the evolving legal interpretation of the HPO, have both been successfully followed through as demonstrated in the attached papers. These are :

- the letter and briefing from QAA to the members of the professional groups,
- a provisional outline overarching standard of proficiency applicable to all Parts of the Register, and
- the paper received by Council on safe and effective practice on 21 January 2003.

The advantages of this approach are :

- compliance with the Human Rights Act,
- locating (uni-)professional expertise at the level of (dynamic) interpretational guidance,
- reducing the risk of having to keep changing or adjusting the standards, and
- readier compliance with the HPC's wider timetable.

In the light of the momentum now generated, I am not recommending another meeting of the Steering Group before or on 6 February. However, if members do feel an urgent need to meet again, please could you let me know (c/o Peter Burley). If you have any more detailed queries about the progress to date, do please ask me (or Mike Laugharne at QAA).

Yours sincerely,



Prof Diane Waller
Chairman, Education and Training Committee

Encs.

cc. Marc Seale
Greg Ross-Sampson
Miriam Collins
Sarah Dawson
Jonathan Bracken
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Dear «Title» «Last_Name»

**HPC: Standards of Proficiency
Group Meetings: 6 February 2003
Venue: The Open University, 344-354 Grays Inn Road, London WC1X 8BP
Time: 10:30 - 16:30**

I am pleased to confirm the arrangements for the next scheduled meeting of the working groups. Progress towards meeting the objectives following the first meeting has been good and I am confident that we will be in a position to meet the expectations for the meeting on the 6 February 2003. You will recall that the objectives of this meeting are:

- to agree a draft document for consultation;
- agree a date by which a draft will be submitted to QAA for processing;
- provide QAA with an agreed distribution list for consultation.

The arrangements for the meeting will be the same as previously and groups will work in the same rooms. Following a discussion with the Chair of the HPC Education & Training Committee, I feel there will be benefit if we meet briefly in a plenary session at the outset in order to clarify a number of matters relating to the timetable for the project and the format of the final document to be presented to the Council in April. For this purpose I have prepared a brief paper as a background to our discussion which is attached.

Also enclosed is a travel and subsistence claim form. Perhaps I could point out that there are a number of outstanding claims from the previous meeting. Also, I would remind you that there are a large number of signed contract yet to be returned to Rachel Curtin at this office.

Finally, I need to clarify a matter regarding additional meetings. You raised this with me in November and what I said at the time was that I had anticipated this work could be completed on the basis of the 3 formal meetings and that email correspondence would facilitate discussions between times. When pressed, I agreed that additional meetings could take place if necessary, as long as they were organised informally by the groups themselves. The project would cover the travel and subsistence costs incurred, but would not meet the costs of room hire because this was not budgeted and I have no element in the contract with HPC against which I can reimburse such costs.

I look forward to meeting with you again next week.

Best wishes

Yours sincerely

Mike Laugharne
Project Manager: Standards of Proficiency

Encs

PREPARING PROFICIENCY STANDARDS

This note clarifies the task of preparing proficiency standards for the Health Professions Council in light of legal advice received by the Council subsequent to the first meeting of the drafting groups in November 2002. It draws attention also to an adjustment in the timetable in light of the decision to re-launch formally the Council following the completion of the first transitional period. The note also reports on the outcomes from a meeting of the Steering Group in December 2002.

Legal advice: The advice to the Council relates to the potential for it to be challenged in the courts under human rights legislation, if it were to apply uncritically the detail of its published standards of proficiency in relation to an application for registration by any single individual. The implications for what the Council actually publishes under the title of standards of proficiency means that it has to be a relatively brief document, fairly generic in nature and best couched in a multi-professional terms. However, this does not imply that the Council will not need to have at hand a statement of standards contextualised for each of the professions represented in the register. The substantive task of the working groups remains, therefore, as originally identified, i.e. for the purposes of public protection, to identify those standards of proficiency that are necessary to ensure safe, effective and legal practice.

Timetable: The Council is required by the Order in Council to re-launch itself formally, after the initial one-year transitional period. While there is some flexibility about how soon beyond the first year it does so, the Council has agreed on 1 April 2003 as the appropriate date. For this purpose, amongst many other matters, it needs to have a document of legal status describing its standards of proficiency. Clearly, the planned timetable for the project does not rest comfortably if this deadline is to be met.

Steering Committee: The Committee met in early December to agree on how the project could take into consideration both the matter of the legal advice and the question regarding the timetable. The Committee decided as a first principle the need to respect the integrity of the project and its agreed objectives, but it would need to balance the requirement of the Council to have documentation available for publication by 1 April 2003 against the legal advice that the contents of that document should not put the Council at risk of challenge at a future date.

The Committee agreed that it would supervise the preparation of a generic statement, drawing from both the QAA/DH emerging health professions framework and the main headings in the Standards 2000 publication of the General Osteopathic Council. This statement will be consistent with the ongoing work of the 12 groups and will be sufficiently general so as not to pre-empt the detailing of standards in each of the separate statements. A copy of this statement will be available for the groups at their next meeting on 6 February:

Draft common framework of standards of proficiency

1 Expectations of a health professional:

1a Professional autonomy and accountability

The registrant must be able to:

- understand and practice within the legal and ethical responsibilities of professional practice;
- maintain the principles and practice of patient/client confidentiality;
- be aware of and understand the concept of informed consent and practice accordingly;
- exercise a professional duty of care to patients/clients/carers;
- recognise the limits of his/her practice;
- recognise the obligation to maintain fitness for practice.

1b Professional relationships

The registrant must be able to:

- recognise professional and personal scope of practice and make referrals where appropriate;
- work, where appropriate, with other health and social care professionals, support staff and patients/clients/carers
- demonstrate effective and appropriate skills in communicating information, advice, instruction and professional opinion to colleagues, patients, clients, their relatives and carers;
- demonstrate continuation of this communication throughout the care of the client/patient.

2 The skills required for the application of practice:

2a Identification and assessment of health and social care needs

The registrant must be able to adopt a systematic approach to:

- collecting case histories and other appropriate information;
- undertaking or arranging clinical investigations as appropriate;
- analysing and evaluating the information collected;
- using appropriate assessment techniques.

2b The formulation and delivery of plans and strategies for meeting health and social care needs

The registrant must be able to:

- use reasoning and problem solving skills to make judgements/decisions in determining appropriate actions;
- formulate specific and appropriate management plans, including treatment and prognosis as necessary, for meeting needs/problems, setting these within a timescale;
- conduct appropriate treatment/therapy or other actions safely and skillfully and in accordance with best/evidence-based practice;
- maintain records appropriately including notes on professional judgements, decisions taken and treatment or advice given.

2c The critical evaluation of the impact of, or response to, their actions

The registrant must be able to:

- monitor and review the ongoing effectiveness of the planned activity and modify accordingly;
- audit, reflect on and review practice.

3. Knowledge and understanding

The registrant must be able to demonstrate a broad understanding of:

- how professional principles are expressed and translated into action through a number of different treatment and management approaches and how to select or modify techniques to meet the needs of an individual;
- models of health, disease and illness and how these inform a critical consideration of patient care and management;
- the structure and function of the human body, relevant to their practice, together with a knowledge of disease, disorder and dysfunction;
- the need for and utilisation of, a safe clinical environment.

Safe and effective practice

Jonathan Bracken

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.

January 2003