
HEALTH PRACTITIONER & REGISTERED SOCIAL WORKER COMPETENCE & REPORTING OBLIGATIONS

Overview

This Document

This document covers the following topics relating to competence and reporting obligations of health practitioners and registered social workers.

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Introduction

Purpose

The Health Practitioners Competence Assurance (HPCA) Act makes certain requirements of employers as well as of individual health practitioners.

The Social Workers Registration (SWR) Act also makes certain requirements of employers as well as of individual registered Social Workers.

This policy is written to allow ADHB to meet its obligations under both Acts and to provide a process for staff to notify ADHB of registration, [practicing certificates](#), scopes of practice, conditions imposed on a scope of practice, competence, claims and complaints in addition to their personal duty to notify the appropriate registering authorities.

Scope

This policy applies to the following ADHB employees and contractors and any others acting on behalf of ADHB:

- All registered health practitioners recognised by the HPCA Act (2003); and
 - All registered Social Workers recognised by the SWR Act (2003).
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Associated Documents

Associated Documents

The table below indicates other documents associated with this procedure.

Type	Document Titles
Legislation	<ul style="list-style-type: none"> • Health Practitioners' Competence Assurance Act (HPCA Act) 2003 • Social Workers Registration Act (SWR Act) (2003)
Board Policies	<ul style="list-style-type: none"> • Annual Practicing Certificate • Discipline & Dismissal • Employee Assistance Program • Police Vetting • Protected Disclosures • Termination of Employment • Social Workers Registration • Supervision of Allied Health Practitioners & Mental Health Nurses • Reportable Events • Complaints Management

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Definitions

Definitions

The table below defines terms, phrases, and concepts, used throughout this policy document.

Term	Definition
Health Practitioner	As defined in HPCA Act – chiropractor; dentist, dental technician, hygienist or therapist; dietitian; medical radiation technologist; medical practitioner; midwife; laboratory scientist; nurse; occupational therapist; optometrist; osteopath; pharmacist; physiotherapist; podiatrist; psychologist and psychotherapist.
Registered Social Worker	As defined in SWR Act <i>s4</i> and <i>s123(1)</i>
Employee	Staff and contractors and any others acting on behalf of ADHB.
Senior Clinical Manager	The person within ADHB to whom the employee is professionally responsible; or, in default, the relevant Clinical Leader.
Clinical Leader	Chief Medical Officer (CMO) for all medical and dental staff. Executive Director Nursing (EDON) for all Nurses and Midwives. Director of Allied Health, Scientific & Technical (DAH, S&T) for all Dietitians, Occupational Therapists, Optometrists, Physiotherapists, Psychologists, Podiatrists, Psychotherapists, Pharmacists, Laboratory Scientists and Technicians, Diagnostic and Therapeutic Radiographers and Social Workers.

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Policy Statements

Policy Statements

ADHB will:

- Comply with the HPCA and SWR Acts and will facilitate its Health Practitioners and registered Social Workers to meet their obligations under the respective Acts.
 - Utilise existing performance management processes and work with the practitioner to commence management of a competence issue prior to notification to the appropriate registering authority.
 - Ensure that practitioners are aware of and are offered Employee Assistance Services (EAP) where these are indicated.
 - Ensure that practitioners are able to access supervision appropriate to their discipline, role and level of experience, aligned to organisational policy requirements.
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Notification Obligations to ADHB Regarding Own Practice

Notify Immediately A Health Practitioner or registered Social Worker must notify ADHB immediately in any of the following circumstances:

- Their registration is revoked or in any way amended.
- They cease to have a valid practicing certificate.
- Their practicing certificate, the scope of practice endorsed on the practicing certificate, or any condition, is revoked or altered in any way.
- Notification to ADHB should in the first instance be made to either the Health Practitioner/registered Social Worker's line manager or clinical supervisor, who will inform the appropriate parties.

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Notification Obligations to ADHB Regarding Own Practice, Continued

Notify As Soon As Practicable

A Health Practitioner or registered Social Worker must notify ADHB as soon as practicable in any of the following circumstances:

- They have been convicted by any court in New Zealand or elsewhere of any offence with more than three months maximum penalty imprisonment that may reflect adversely on their fitness to practice.
- They suffer any physical or mental condition that results in the Health Practitioner/registered Social Worker being unable to perform the functions required for the practice of his or her profession.
- They receive notice of a complaint or claim relating to the services they have provided in the course of their employment with ADHB.
- They receive notice that his/her professional authority intends undertaking a competence review (excluding competence reviews that may be undertaken for routine or audit purposes by a registering authority).
- They receive notice of the outcome of any non-routine audit/competence review undertaken by his/her professional authority, or when competence concerns have been identified.
- A registered Social Worker receives notice regarding their fitness to practice as per the *SWR Act s47(2) a, b and c*.
- Notification to ADHB should in the first instance be made to that Health Practitioner/registered Social Worker's line manager. The line manager will then consult with the relevant Clinical Leader.

Third Party Notification

These obligations do not include ethical or legal obligations to inform third parties.

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Notification Obligations to Regulating Authorities Regarding Other Practitioners

Health Practitioner & Registered Social Worker Obligations under the HPCA Act & SWR Act Regarding Other Practitioners

A Health Practitioner **may** notify another practitioner's authority if they believe that other practitioner may pose a risk of harm to the public by practicing below the required standards of competence (s34(1) HPCA Act).

- The notifying party is encouraged to report internally to the line manager first but must notify a senior clinical supervisor where they have notified under these provisions.

A health practitioner **must** notify a practitioner's authority where they have reason to believe that practitioner is unable to perform the functions required for the practice of his or her profession because of a mental or physical condition (s45(2) HPCA Act).

- Where the above has occurred, the employee **must** notify their line manager where they have reason to believe that a health practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition. Where the employee is also the treating clinician the rules pertaining to the doctor/patient relationship may take priority; however, there is still a legal obligation to notify the appropriate reporting authority.

Any person who considers that a registered Social Worker may be unable to perform adequately the functions required to practice social work satisfactorily **may** give the Registrar notice of the circumstances (s51(1) SWR Act).

- The notifying party is encouraged to report internally to the line manager first but must notify a senior clinical supervisor where they have notified under these provisions.
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ADHB Receipt Notification Action from a Regulating Authority

**ADHB Action upon
Receipt of
Notification Under
both Acts**

Where the DHB is notified either of a referral made by a person to the Health Practitioners'/registered Social Workers' authority, or we receive notification of competence concerns, disability concerns, alteration of registration or practicing certificate status (e.g. restrictions on practice); the primary consideration is patient safety.

Wherever practicable the Health Practitioner/registered Social Worker must be given an opportunity to comment before any ADHB action is taken. The employee must be given notice of the reasons for action and should be kept informed. Wherever possible steps to mitigate risk should be agreed by the Health Practitioner or registered Social Worker.

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ADHB Obligations to Health Practitioners under the HPCA Act

ADHB's Obligations in Relation to Health Practitioners under the HPCA Act

ADHB must promptly notify an authority where a Health Practitioner resigns or is dismissed from his or her employment for reasons relating to competence (s34(3) HPCA Act).

- Notification will be made by the relevant (designated) Clinical Leader *only after* consultation with the employee's General Manager and relevant other staff e.g. Service Manager, Clinical Director, Nurse Leader, Nurse Advisor, Allied Health Professional Leader, HR Manager, Team Leader, Charge Nurse, Charge Midwife.
- Where a Health Practitioner resigns, notification will be made where there are reasonable grounds for believing that resignation is related to questions about competence, and a formal ADHB performance management process would have been undertaken had the employee remained employed by ADHB.
- A Health Practitioner who has resigned or been dismissed will be informed where such a notification has taken place.
- ADHB shall undertake to seek ex-employees view and give them the opportunity to address the issue where ever practicable.

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ADHB Obligations to Health Practitioners under the HPCA Act, Continued

**ADHB's
Obligations in
Relation to Health
Practitioners under
the HPCA Act,
continued**

ADHB must notify a practitioner's authority where there is reason to believe that the practitioner is unable to perform the functions required for the practice of his or her profession because of some mental or physical condition (s45(2) HPCA Act).

- ADHB will take reasonable steps to investigate the concern(s).
 - ADHB may seek medical advice before deciding whether to refer for physical or mental condition. Where possible consent will be sought from the practitioner.
 - Where practicable ADHB will consult with the Health Practitioner before deciding whether to refer.
 - The line manager **must** inform the relevant Clinical Leader so that a joint decision can be made regarding whether ADHB needs to investigate.
 - ADHB will take reasonable steps to investigate the concern(s) as above and through the Clinical Leader is obliged to notify the Health Practitioner's registering authority if the grounds for belief are validated.
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Good Faith & Confidentiality

Note

Any referral or notification made under this policy must be made in good faith having taken reasonable steps to ensure the accuracy of information upon which the decision to refer or notify is made. Referral or notification does not of itself establish the accuracy of that information.

Confidentiality

Notification under this policy should be treated in strict confidence with other employees to be informed on a need to know basis only.

Disclosure outside the organisation will be made only where authorised or required by law.

Unless there is good reason not to disclose the identity of the first employee, that information shall be disclosed to the health practitioner concerned.

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