NEW LAW BRINGS MAJOR CHANGES

BY TERESA O’CONNOR

The Health Practitioners Competence Assurance Act will mean major change for the profession. Those changes will be introduced this year.

THE HEALTH Practitioners Competence Assurance Act, 2003 (HPCA), was passed by Parliament on September 11, 2003 and received the Royal Assent on September 18. It is a wide-ranging piece of legislation, which will repeal 11 occupational statutes (including the Nurses Act, 1977) governing 13 professions, and introduce competence-based practising certificates for health practitioners. It also establishes a Midwifery Council.

The Bill was introduced to the House in June 2002. There were three readings and the Health Select Committee heard 256 submissions on the Bill. In an historic move, NZNO, along with the Public Service Association, the Association of Salaried Medical Specialists, the College of Midwives, the Medical Association and the Allied Health Professional Forum, a group of 11 health professional groups, presented a combined submission to the select committee. The organisations represented more than 55,000 health practitioners. NZNO also presented its own submission, based on four principles: the protection of patient safety; professional self regulation; consultation with the profession; and inclusion of the Treaty of Waitangi.

The purpose of the HPCA is to protect the health and safety of members of the public. Its basic principles are: ongoing competence, separation of the registration process from the disciplinary process, and the declaration of protected quality assurance activities. Major provisions of the Act, to be administered by the Ministry of Health, include:

- Only health practitioners who are registered under the new Act will be able to use the titles protected by the Act or claim to be practising a profession that is regulated by the Act.
- Registered health practitioners will not be permitted to practise outside their scopes of practice.
- Registration authorities will be required to certify that a practitioner is competent to practise in their scope of practice when they issue an annual practising certificate; and
- Certain activities will be restricted, and only able to be performed by registered health practitioners.

The Act, which comes into force over the next year, will be reviewed in three years. On December 18, three months after the Royal Assent, 2003, a range of sections will come into force including:

- establishing four new authorities: (Dental, Pharmacy, Midwifery and Osteopathic Councils);
- enabling these new authorities and the continuing authorities (including Nursing Council) to prepare, consult on, and gazette “scopes of practice”; and
- enabling the Minister of Health to gazette a list of “restricted activities”, ie those activities that can only be performed by health practitioners registered under the HPCA.

The remainder of the Act comes into force on September 18, 2004. On that day the HPCA will take over from the existing occupational registration legislation. Coming into force will be scopes of practice, any list of restricted activities, provisions for a new single disciplinary tribunal, and provisions relating to the ongoing competence and discipline of practitioners.

While NZNO is pleased the outdated Nurses Act 1977 has been repealed, it remains concerned about how the HPCA will be enacted within nursing. NZNO’s concerns, outlined by policy analyst Eileen Brown, centre on:

- the Council’s consultation processes;
- how the three scopes of practice (nurse practitioner, registered nurse, enrolled nurse) will be developed;
- how the professional competence assurance framework will be developed; and
- whether, in developing ethical, clinical and cultural competencies, the Council will exceed its regulatory function.

NZNO wants a “robust consultation process” to ensure the profession has genuine input into implementation of the Act, including the scopes of practice. It also wants the profession, rather than the Council, to develop competencies and the Council to then approve them. Brown said NZNO’s colleges and
sections had spent a great deal of time developing standards and competencies and these could be a useful starting point.

The Nursing Council’s first priority is an in-depth study of the Act to see how it affects all its processes. “We are beginning to do that now,” chair Annette Huntington said.

Scopes of practice must be gazetted by December 18 and Huntington said the group of national nursing organisations (NNO) would be “one of the most significant” consultation processes. “We have to have a process for consultation and to manage that process and the NNO group is very important to use in terms of consultation. We need to get cracking with that.”

**Treaty of Waitangi**

The Treaty of Waitangi was part of the Council’s strategic plan and plans were being developed to include the treaty at governance and operational levels.

Huntington said under the Act, the regulatory authority had to develop a code of ethical conduct, which incorporates clinical and cultural competencies. “Our current code of conduct will be our starting point. We will have to consult on that as well.”

The new Act meant “an enormous amount of work” particularly for the Council’s operational side and Huntington said staffing would have to be reviewed. “We will have to have a competency assessment section which we’ve not had before.”

Any restricted activities would be considered during the development of scopes of practice, Huntington said.

During this year, there will be separate annual practising certificates (APCs) for nurses and midwives, with a nursing APC costing $50 and a midwifery APC costing $100. This is a one-off arrangement and, from 2005, the new Midwifery Council will set the APC fee for midwives.