

# Regulating the Physician Associate profession under the Health Practitioners Competence Assurance Act 2003

Consultation document

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# Introduction

## Background

Manatū Hauora - The Ministry of Health (the Ministry) is proposing that the Physician Associate (PA) profession be regulated under the Health Practitioners Competence Assurance (HPCA) Act 2003. At present there are 33 individuals practising as Physician Associates in New Zealand, with between 15 and 18 more known to be taking up employment offers before the end of 2023. They are spread around the country, and currently work mostly in GP clinics in Kaitiā, Dargaville, Whangārei, Auckland, Papamoa, Stratford, Hamilton, Cambridge, Te Awamutu, Te Kuiti, Wellington, Gore, Invercargill, Russell, Ngatea, Whitianga, Te Aroha, Otorohanga, Hawke's Bay, Whanganui, Christchurch, and Ashburton.

Regulation under the HPCA Act is reserved for professions that pose a risk of harm to the public. The PA profession poses a risk of harm as practitioners perform a range of activities that can cause significant harm (including permanent injury or death) if not performed competently.

Regulating the PA profession under the HPCA Act would increase public safety by:

- requiring a Responsible Authority (RA) to set the parameters of practice, qualifications, and competencies (including cultural competencies) required for safe practice
- providing a publicly accessible register of who is appropriately qualified and safe to provide PA care
- requiring practitioners to maintain competence in order to receive an annual practising certificate (APC).

The Ministry proposes that the profession be added to an existing authority, and is currently working to identify which RA that should be.

The Ministry is seeking feedback from key stakeholders on whether they agree that the PA profession meets the criteria for regulation under the HPCA Act. The criteria include an assessment of the existing regulatory mechanisms, and the practicality of regulating the profession under the HPCA Act. The Ministry also requires feedback on whether stakeholders consider that the benefits of regulation outweigh the negative impacts of regulation. The feedback provided from this consultation document will be used in advice to the Minister of Health so a decision can be made on the Ministry's proposal.

# The HPCA Act

The purpose of the HPCA 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 practise their professions'. In order to protect the public, the HPCA Act establishes responsible authorities (RAs) to regulate the practice of registered health practitioners.

An RA consists of a governance board/council that is supported by a Registrar and secretariat. There are currently 18 RAs that oversee 26 health professions. Some RAs oversee more than one profession, and some RAs share some secretariat services with other RAs.

RAs are responsible for establishing the scope(s) of practice for registered practitioners and the qualifications and competencies required for registration. RAs are required, through the issuing of practising certificates, to certify that the practitioner is competent to practise within their scope of practice.

With a few exceptions<sup>1</sup>, the HPCA Act does not prohibit non-registered people from carrying out the activities of a registered profession. However, only health practitioners who are registered under the HPCA Act are allowed to use the title associated with the profession or scope of practice.

Since the HPCA Act came into force in 2004, four new health professions have been included under the Act: psychotherapy (in 2007), anaesthetic technology (in 2011), paramedic services (in 2019), and Chinese medicine services (in 2021). Under s 115 of the HPCA Act, the Governor General has the power, on the Minister of Health's recommendation, to:

- designate health services of a particular kind as a health profession
- establish an RA to regulate the new health profession, or add the new health profession to an existing RA.

Before making such a recommendation, the HPCA Act requires the Minister of Health to consult with any interested organisations and be satisfied that:

- the provision of the health services concerned pose a risk of harm to the public, or that it is otherwise in the public interest to regulate the profession
- there is agreement amongst providers of the health services concerned on the qualifications, standards, and competencies required for the health profession.

<sup>1</sup> Refer s 9 of the HPCA Act

# We want your input

You are invited to comment on the proposal that the Physician Associate profession be regulated under the HPCA Act. To assist you in providing comment, this consultation document:

- provides background information about the HPCA Act and the PA profession
- explains the criteria for assessing new health professions for regulation under the HPCA Act
- describes the risks of harm of the PA profession
- outlines how the profession is currently regulated
- discusses the implications for the profession if PAs were regulated under the HPCA Act
- [Questions redacted]

## Proposal for regulation

### Physician Associate profession

Physician Associates are among those professions known as ‘physician extenders’ – practitioners who are able to undertake evaluation, diagnosis, treatment (including prescribing in some jurisdictions), and case management tasks, thereby reducing demands on physicians’ time. The role is used in both hospital and primary care environments, with PAs often working specifically in the specialty of their supervising doctor.

The PA role has existed in the USA since the 1960s and is now common in Canada and the United Kingdom (UK). The trend in all jurisdictions where the role has been formally recognised has been towards full regulation, and in some jurisdictions appropriate prescribing authorisation has also been granted.

The PAs currently working in New Zealand were all trained in the USA, the UK, or Canada. In most countries the required PA qualification is a post-baccalaureate (Masters) degree of 27 months’ duration with at least 2000 hours of clinical training and 2000 hours of didactic coursework. Most training programs require at least 1000 hours of health care experience prior to entering the program, and most applicants have extensive experience in nursing, paramedicine, lab science, or another allied health profession.

# Criteria for regulating new professions

## Two-tier criteria

In order for the PA profession to be regulated under the HPCA Act, the profession must meet the specified criteria. The Ministry uses a two-tier set of criteria to assess new health professions for regulation.<sup>2</sup>

- The primary criteria consider whether the profession meets requirements stated under the HPCA Act for regulation.
- The secondary criteria focus on the practicalities of regulating a new health profession and whether statutory regulation is the most appropriate means to protect the public.

<sup>2</sup> The Ministry also uses a set of guiding questions to interpret the criteria for regulation, which can be found on the Ministry's website:  
[https://www.health.govt.nz/system/files/documents/pages/applying\\_for\\_regulation\\_under\\_the\\_hPCA\\_act\\_2003\\_0.pdf](https://www.health.govt.nz/system/files/documents/pages/applying_for_regulation_under_the_hPCA_act_2003_0.pdf)

In 2022, the Ministry finalised its assessment of the New Zealand Physician Associate Society's (NZPAS) application and convened an independent expert panel for advice about whether the proposal met the criteria for regulation. The panel agreed that there is a robust case for the PA profession to be regulated [Appendix redacted]

## Primary criteria

### **Delivering a health service as defined under the HPCA Act**

The Ministry and the expert panel consider that the tasks completed by PAs clearly fall within the HPCA Act's definition of a health service. That is, they routinely work to assess, improve, protect, and manage the health of individuals.

### **Risk of harm to the health and safety of the public**

The Ministry and the expert panel consider that PAs' work is (at times) physically invasive and carries serious potential for patient harm (including death) if not performed competently. These activities include (but are not limited to) assessment, ordering tests, reviewing results, diagnosis, treatment planning, and conducting invasive procedures such as suturing, punctures, and excisions.

Although PAs must currently work under the supervision of a designated medical practitioner, the supervisor is not required to be in the same room or facility as the PA but rather must be readily available for consultation or advice as necessary.

### **Public interest in regulating the PA profession**

The Ministry and the expert panel consider that regulation of the PA profession is in the public interest. Although PAs normally work under supervision, as noted above the nature of that supervision is highly variable. PAs in New Zealand work in a variety of locations including urban, rural, and in less densely populated locations where populations can be underserved and more at risk (including the very young, elderly, disabled, and people who are mentally ill or have addictions). Employers would be assisted in identifying appropriately qualified PAs if they could rely on nationally consistent registration.

## Secondary criteria

### **Effectiveness of existing regulatory mechanisms and consideration of alternatives**

Health and Disability Commissioner (HDC) - PAs must uphold the Code of Health and Disability Service Consumers' Rights (the Code) in their capacity as health service providers, including the duty to provide consumers with services of an appropriate standard of care (Right 4 of the Code). However, the HDC Act can only provide retrospective protection to the public.

Self-regulation - A voluntary, self-regulation approach is currently in place for PAs in New Zealand, but it has gaps and weaknesses (eg, a lack of robust enforcement mechanisms) that could be exposed by a serious incident.

Employer led regulation - Although all PAs are subject to oversight by their employer, some may work only in the private system, making employer-based regulation less certain and secure.

### **Determining whether regulation under the HPCA Act is possible**

The Ministry and the expert panel consider that the PA profession covers a discrete (yet reasonably homogenous) area of activity and has a body of knowledge and skills that are teachable and testable. Functional competencies have been defined and accredited qualifications are required for entry to the profession. NZPAS, which currently includes every PA practising in New Zealand as members, favours statutory regulation. There have been no contrary views voiced by members of the profession.

### **Determining whether regulation under the HPCA Act is practical**

It is expected that, by adding the PAs to an existing RA, the start-up and running costs of regulation will be manageable and sustainable. (This is the same approach recently proposed for the Cardio-pulmonary Perfusionist profession, where the Medical Sciences Council has agreed to take responsibility for regulating the 30- member profession.) Further, the NZPAS has indicated financial support to establish regulation.

## **Benefits vs. negative impacts of regulation**

Negative impacts of regulation could include:

- significant start-up and ongoing operational costs to practitioners and employers
- frequent conflicts of interest within a small profession (for example when the responsible authority sets up committees under the Act).

Benefits of regulation could include:

- creation of a nationally consistent and comprehensive registration regime, thereby ensuring that registered practitioners are competent and fit to practice the profession in Aotearoa New Zealand
- establishment of nationally consistent and reliably enforceable standards of clinical competence, cultural competence, and ethical conduct
- requirements for recertification under the Act would provide assurance of ongoing competence to practice
- workforce changes may see more PAs employed, particularly in hard-to-serve communities. This may help shorten waiting lists, thereby reducing risk to members of the public. This could lead to more confusion around healthcare roles and boundaries, while also providing consumers with a wider range of treatment providers
- PAs are currently not able to practise to the top of their scope in New Zealand; in the absence of regulation, they cannot be granted prescribing authority and are restricted by current supervision requirements
- A New Zealand-based training programme is more likely to be developed if the profession is regulated under the HPCA Act. As currently all PA training is undertaken overseas, this limits access to the profession for Māori, Pacifica, and others from Aotearoa New Zealand





