

Kia ora koutou

In our final communications series email leading up to the release of the APC fee and disciplinary levy consultation document, we look at key factors which have enabled notifications and complaints to be quickly resolved. At the forefront of one case was the willingness of the pharmacist to engage with Council and demonstrate their commitment to improve their practice. This reduced the time and resourcing needed from our compliance team, and also contributed to not needing to refer the case onto a Competence and Fitness to Practise Committee, which incurs further costs for Council. Conversely, we look at the factors that can lead to a lengthy and costly process following a notification or complaint.

If you have missed any updates in our communications series, you can read them on our website [here](#). Thank you to those who have sent us their questions and feedback as this has helped to shape the content of our communications and the upcoming consultation document.

Our series aims to enhance understanding of Council's statutory role to protect public health and safety, the financial challenges of fulfilling this function as the Responsible Authority for pharmacists in Aotearoa New Zealand, and the rationale for Council's proposed new APC fee and disciplinary levy, which combined will be just over \$1,000 (from \$925 this year).

Reasons for the increase include: a rise in the number and complexity of notifications and complaints we are receiving in relation to pharmacists' health, conduct and/or competence to practise, the need to replenish our general and disciplinary reserves, and general inflationary pressures.

Cases where pharmacists have engaged with Council to address notifications and complaints enabling timely resolution

The Council has a statutory obligation to assess and respond to each notification it receives and always seeks to respond proportionately and in line with the assessed level of risk to the public. Where a pharmacist shows insight and willingness to improve their practice, many competence concerns are resolved through an educative approach rather than the need for statutory action.

The most common reason for a notification, often received through the Health and Disability Commissioner which would have been alerted in the first instance, is a dispensing error. The pharmacist who is the subject of a notification is always asked to respond to the information that Council has been provided with.

A recent case that enabled a speedy resolution while also satisfying Council that the pharmacist was competent and fit to practice included the following steps:

- after being invited to respond to the dispensing error by Council, the pharmacist responded promptly with detailed information and proceeded to reflect not only on their own practice, but also on the processes of the pharmacy where they worked.

- the pharmacist reflected at length and proactively offered to do a course as a form of additional training to improve their practice and to prevent further errors.
- following the course, the pharmacist reflected on what they had learnt from the course and how it would enable them to change their practice.
- the pharmacist also looked at the processes at their pharmacy and initiated changes. They then arranged for an audit of the pharmacy's processes.

The compliance team described this case as 'exemplary' due to the pharmacist reflecting deeply on their practice and proactively making changes to achieve quality improvement.

Other cases that Council has been able to resolve quickly are where pharmacists have provided detailed information to Council in a timely way, and that have engaged with Council across a range of responses such as Council sending an educational letter, having a practice conversation with the pharmacist or accepting a practice visit. It is rare for a dispensing error to be referred to a Competence and Fitness to Practice Committee or a PCC, and this tends to only happen if there are competence or conduct concerns.

Cases which have been complex and time consuming

While some pharmacists undertake reflection, some only do so with a very narrow focus on the error itself rather than their wider practice. This can be very time-consuming for both the pharmacist and the compliance team as it requires back and forth correspondence to reach an acceptable resolution, so that Council is assured the pharmacist is competent and fit to practise. At the heart of resolving each case is Council's need to be assured that public safety is not at risk.

The actions of pharmacists in relation to some of the cases Council has worked on, which led to significant complexity and drawn-out processes have included pharmacists:

- not accepting the notification/complaint and not providing sufficient information to Council in response
- challenging the allegations and Council's subsequent decision and not addressing the concerns
- not providing timely (or any) responses, requiring ongoing follow up from Council
- providing information that is not relevant to the notification/complaint
- providing a huge volume of information which is opinion rather than evidence based/factual which requires Council to wade through a lot of material to separate the two
- requesting information from Council which is not legally required
- requesting a review of Council's decision.

Some cases relating to a pharmacist's conduct and/or the safety of their practice may be referred by Council to the Competence and Fitness to Practise Committee to consider a competence review/programme or to a PCC to investigate. These referrals often take place

when the pharmacist does not respond to the request for information, or when there is insufficient information provided for Council to assess the case and resolve the complaint. These processes can be time consuming and incur additional costs due to independent contractors conducting reviews, as well as legal and secretariat costs.

Another aspect which can add to complexity and the time taken to resolve a complaint is when there are multiple organisations investigating a complaint such as: the Health New Zealand Te Whatu Ora integrity team, Medicines Control, HDC (Council needs to await the HDC referral and/or decision before it can act), and the police (this can hold up the PCC process as the case must be put on hold by the PCC as it waits for the outcome of a police investigation).

Further information

Summaries of cases investigated by the HDC are regularly published in our newsletter (the majority are related to dispensing errors) with key lessons learnt. The outcomes of cases heard by the HPDT can be read on [HPDT website](#) (to read about cases involving pharmacists filter by health profession).

Health notifications and self-disclosures

Council is seeing a steady rise in the number of health notifications it is receiving. We believe a key reason for this may be that there is less stigma associated with mental illness such as anxiety and depression, and practitioners are more willing to disclose these health issues and seek help for them.

Pharmacists are encouraged to disclose any health issues to Council that may impact their competence and fitness to practise. This can often be a simple process when the pharmacist's self-disclosure is provided alongside information on how they are managing their health issue and what support they have in place, e.g., from their employer, GP, specialist. Council appreciates pharmacists who are upfront about the matter to assure Council of the safety of their practice. We also recommend that even if a pharmacist considers it a minor health matter, that it is best to disclose to Council to be on the safe side.

In addition to pharmacists self-disclosing a health condition, health notifications are also received from pharmacist colleagues/the practitioner's employer. If Council has concerns it may look at a health assessment for the pharmacist, and in cases where it believes there is a risk to public safety, it may place conditions on a pharmacist's practice.

Many pharmacists are responsive and voluntarily agree to undertake a health assessment if Council asks for this.

Responding to your feedback to our APC fee communication series

Below are two issues raised in response to our communications series to date that we wanted to respond to:

Pharmacy Council is not advocating for the profession on workforce and is not a strong advocacy organisation for the profession: Council is a Responsible Authority established under the Health Practitioners Competence Assurance Act 2003 (HPCA Act) whose role 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. Council does not therefore have a mandate to be an advocacy organisation. However, we are fully supportive of the role of professional associations to advocate on behalf of the profession and encourage pharmacists to belong to a professional association to reap all the benefits they provide, including advocacy.

You need to be more fiscally responsible with the government funding you receive: Council does not receive any government funding. Under the HPCA Act, all Responsible Authorities must fund their own regulation through the profession they regulate. This revenue is generated through charging health practitioners an APC fee.

We hope that you found our communications series insightful and informative. We look forward to continuing to connect with you on the APC fee consultation which will be released on 31 October.

Ngā mihi nui

Michael A Pead
Chief Executive