



From the Chair and Chief Executive

Welcome to the Pharmacy Council's last newsletter for 2018. It has been a busy year for the profession and the Council. We have achieved a lot but some of the key "stand outs" for the year include:

1. **Implementation of a new Code of Ethics.** The introduction of a more principles-based Code expresses the responsibilities and professional values, including care of the patient, professional integrity and professional competence.
2. **Engagement with the Profession.** Council was appreciative of those who took the time to attend the two sessions we held in various cities throughout the country. The first of our sessions gathered critical input to a number of our major projects, and mostly views on future roles of pharmacists and recertification considerations. A second session led was held in July to outline Council's work programme and budget, along with some learnings from disciplinary matters.
3. **Review of Intern Written Examination.** The decision to cease the intern written examination for intern pharmacists was significant. We are pleased with the consultation submissions we received as well as the robust process, resulting in a compelling decision that the exam was no longer necessary because the competencies it tested are now assessed through other mechanisms.

There is an equally challenging and exciting programme of work ahead for 2019. Some likely significant areas of work and areas of great impact for the pharmacy profession next year include:

1. **Therapeutics Products Bill Exposure Draft.** The review and replacement of the Medicines Act is overdue and required to help the profession utilise its expertise to achieve better health outcomes for all New Zealanders. Firstly, we need to provide feedback on the consultation that ensures the policy makers put legislation in place that maintains and enhances the required supportive mechanisms to the regulatory framework under our legislation (the Health Practitioners Competence Assurance Act - HPCAA). Secondly, the proposed therapeutics legislative options that helps the profession understand what it might mean for the regulatory framework we are responsible for designing and implementing (under the HPCAA).
2. **Pharmacy Services Agreement:** With the introduction this year of the evergreen pharmacy services agreement, it is important that Council strategically involves itself to consider the possible patient safety implications and offers constructive input to those responsible for the implementation stage of the agreement.
3. **Code of Practice for Clinical Based Pharmacists in General Practice and Regulation of Pharmacy Accuracy Checking Technicians (PACTs).** We propose to release a Code for the development of the profession in General Practice in 2019 as well as the finalisation and consideration of whether regulation is the last and only mechanism remaining to appropriately support PACTs.

Thank you to all those who have made a positive and constructive contribution in helping us continue to ensure public wellbeing through safe pharmacist practice. Our sincere thanks to Council members and the operational team for their continued commitment and passion to the work and role of the Pharmacy Council.

We hope you all have a safe and enjoyable festive period with whanau. **Meri Kirihimete.**

Mark Bedford
Chair

Michael Pead
Chief Executive



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Mark Bedford
Chair



Michael Pead
Chief Executive



SCOPE AND STANDARDS PHARMACY PRACTICE



Maintaining patient privacy in a public setting

The Pharmacy Council has been receiving concerns from members of the public relating to what they feel are breaches of their privacy.

Pharmacists are responsible for effectively communicating relevant health information to the patient. When doing so, we understand it can be difficult to find the right balance of providing sensitive information in a publicly accessible setting. Furthermore, patients can have different levels of comfort when receiving different types of information.

We want to share some examples of patient cases with you and provide some learning points to encourage a review of your processes for maintaining patient privacy in the pharmacy environment.

Competence Standards

Competency M2.1: Communicate effectively

M2.1.7: Undertakes all consultations in an appropriate setting, minimising interruptions and maintaining verbal, auditory and personal privacy

Competency O3.5: Provide patient counselling

O3.5.5: Counsels in a patient-centred manner, ensuring privacy and confidentiality and using language the patient understands

Code of Ethics

Principle 2: A pharmacist practises and promotes patient-centred care.

2A: Respects and protects the autonomy, dignity and privacy of patients

2G: Safeguards and respects the confidentiality of patients' information with appropriate security and safeguards applied to digital and hard copy information.

Case 1: A patient is counselled about her medication, salbutamol inhaler and sodium valproate, which are in their original containers, visible to other customers, at the retail counter. The patient is silent and nods quickly in an effort to hurry up the conversation. *There are patients sitting on chairs next to the retail bench, waiting for their prescriptions and the patient feels their privacy has been compromised.*

Case 2: A patient comes to collect his medication which is bagged up in a brown paper bag on a shelf behind the retail bench. A receipt is attached to the paper bag which is *labelled with the patient's name, address and a list of his medication*. As the patient has not had the medicines before, *the pharmacist takes them out of the bag to explain what they are used for and how to take them*. The patient states that he does not want a public explanation of his medicines. The patient also identifies that he *can read what other patients are taking from the receipts on the brown paper bags from where he is standing*. The patient requests that the pharmacy takes more care of patients' privacy when storing and handing out patient information.

Case 3: A patient drops in a controlled drug prescription for morphine tablets. The pharmacist identifies that the prescription has recently expired and goes out to the shop to inform the patient, showing him the date of prescription and explaining the legal requirements for controlled drug prescriptions. The patient is conscious that this *conversation is happening within earshot of a retail staff member*.

Case 4: A patient requests a pharmacist-only medicine and is asked questions by the pharmacist to confirm whether the medicine is appropriate. Once the pharmacist concludes its appropriateness, he asks for the patient's name and address. The patient is conscious of *other people in the shop who have overheard her health issues and will now know where she lives*.

PTO



These concerns are from the perspectives and experiences of members of the public. It can be difficult to gauge your client's level of comfort in receiving or divulging information in a publicly accessible setting.

Exercise:

The Pharmacy Council recommends that you and your colleagues discuss how privacy is maintained in the workplace, including ways to ensure:

- health information is kept secure and away from the view of the public
- the client is comfortable in receiving the vital information during the consultation (e.g. asking "is it ok if I go through your medicines with you here?")
- the client understands why they are asked for certain information
- different areas of the pharmacy are utilised including quiet areas away from others or the consultation room, when conversing with patients.

Further reading and Continuing Professional Development opportunities:

- The Health and Disability Commissioner's (HDC) Code of Health and Disability Services Consumers' Rights ([HDC Code of Rights](#))
- The Health and Disability Services Pharmacy Services Standard 2010 (Communication and Informed Consent sections).
- The Privacy Commissioner's [website](#) which contains:
 - information about the [Privacy Act 1993](#), including its [principles](#)
 - the Health Information Privacy Code 1994
 - e-learning training modules on privacy.



SCOPE AND STANDARDS PHARMACY PRACTICE



Sector Quality Improvement Series

Valid Prescription – has the prescription been signed by the prescriber?

As we all know, the prescription must be signed by the prescriber to be a legal prescription. There will of course be instances where this does not occur before the prescription is faxed or phoned by the prescriber directly to the pharmacy. Legislation allows for these instances if there is an agreement between the pharmacist and the prescriber that a signed copy will follow within [48 hours](#) for controlled drugs or, otherwise, up to [seven](#) days.

In the instance where a patient presents a prescription to the pharmacy for dispensing, a pharmacist needs to ensure that the prescription is legal and legitimate – one of these safeguards is that a prescriber has authorised the prescription by signing it.

Forgers are becoming more adept at electronically generating prescriptions and scanning legitimate prescriptions. An unusual or absent signature may be the only aspect to alert you that it may be fraudulent.

Pharmacists are expected to follow standard process for assessing that prescriptions are valid. Prescriptions can be dispensed at face value if they meet all legal and clinical requirements.

If there are prescribers that are routinely not signing prescriptions and expecting a pharmacy to dispense them, please discuss this collegially with the prescriber, the practice, the Primary Health Organisation or your District Health Board portfolio manager.

We do not expect pharmacists to be gatekeepers for prescribers who are not meeting their obligations; however, safety concerns have arisen where unsigned prescriptions have slipped through a number of health professionals without the prescriber even being aware that this has occurred.

Sector work is currently underway to ensure General Practices have robust repeat prescribing policies to ensure that repeat generation is done in a safe, robust and consistent manner, nationwide.

The Pharmacy Council suggests the following discussion points with your colleagues:

- What is the pharmacy's standard operating procedure when an unsigned prescription is presented by a patient?
- When would dispensing an unsigned prescription still enable you to meet your legal, ethical and professional obligations?



ASSURANCE OF QUALIFICATIONS AND COMPETENCE

Intern policy – calling all interns and preceptors

Council's new [Intern Policy](#) outlines its expectations relating to the period of registration in the Intern Pharmacist scope of practice. It applies for New Zealand/Australian graduates and for overseas pharmacists applying for registration using the non-REQR pathway. The policy encompasses the EVOLVE intern training programme, the Assessment Centre and time beyond the first year of internship that may be required to complete either of these. The policy has been developed to help ensure that knowledge and skills that have been acquired and built upon through the degree programme and the intern training programme are retained in the period leading to registration as a pharmacist. We are grateful for input from EVOLVE and the universities in the development of this policy.

We urge all 2019 interns and preceptors to become familiar with the policy and its contents.

Recertification requirements – focus on the people who use your services

A reminder that all pharmacists who are completing their three-year learning cycles in March 2019 must meet the new recertification requirements for cultural competence: 12 points from learning related to one or both of M1.4 *Practise pharmacy within New Zealand's culturally diverse environment* and M1.5 *Hauora Māori*; including five points from Group 2 and at least one point from learning focusing on Hauora Māori.

Recertification requirements are checked online using a points system but counting points should not be the goal of life long professional learning. We encourage all practising pharmacists to reflect on their practice, critically evaluate their competencies against the [Competence Standards for the Pharmacy Profession](#) and choose professional learning that improves outcomes for the people using their services.

Council introduced a cultural competence recertification requirement in 2016. It acknowledges persistently poor health outcomes of Māori, Pacific peoples and other populations experiencing inequitable health outcomes, and the impact a pharmacist can have as the first health professional many people see. It is important that interactions are culturally safe and respectful. For example, improving pronunciation of patient names, engaging meaningfully in local communities of different cultures, or developing a deeper understanding of tikanga Māori.



REGISTRATION, COMPLAINTS AND DISCIPLINE

Pharmacist works with us to return to practise

Like any one of us, pharmacists may experience physical or mental illness which has the ability to affect their ability to practise. In many such cases Council will work with the pharmacist. This may include talking confidentially to find a way forward; putting in place measures to help their return to good health and to safe practise and, less formally, setting up a voluntary agreement around work hours, employer support etc.

Over the last year we have been working with a pharmacist who contacted Council for help. Here is this person's story.

"When I went through a rough patch recently, strangely one of the easiest things I did was contacting the Pharmacy Council to let them know I would be off work for an undetermined period of time. At the time I didn't even consider the decision to call; it just seemed to be something I had to do, as per my professional requirements. I was surprised to find that my upfront and open attitude was considered slightly unusual.

It's a scary position to be in, when you can't do your job. Telling your governing body that you can't work tends to feel like one more nail in the coffin: that they'll just take your APC away completely and forbid you from practicing again. In reality, I found that dealing with the Council was simple and straightforward. I didn't feel like an abstract concept; I was a complex person with individual circumstances, and they treated me accordingly.

Personally, I was particularly lucky in that my employer acted in a manner both generous and thoughtful when it came to returning to work in a manner most appropriate to my needs. But having the Council aware of the situation made these negotiations even simpler because they were giving support and advice from an outside perspective. By working together in this way, it enabled me to be safe and sensible in returning to work - for myself, for the patients, and for the profession.

I still hesitate to call myself anything of a success story; like most things in life, I'm a constant work in progress. But I do believe I wouldn't be back in my job today without the support of the Council, and I would encourage anyone who is struggling to use the professional services and support the Council can provide. I personally made that decision on instinct, but in the end I'm very glad that I did."

REGISTRATION, COMPLAINTS AND DISCIPLINE

Some lessons from recent Health Practitioners Disciplinary Tribunal (HPDT) decisions

(Further information on the HPDT, can be found [here](#).)

It may be human nature for most pharmacists to assume that the misconduct reflected in tribunal cases is not applicable to them. The circumstances of misconduct cases are varied, sometimes starting with a minor breach of standard that goes unchallenged, or because of other confounding factors escalates into misconduct. Five recent cases heard at the HPDT identify some important lessons and messages for all pharmacists. (For further information on these cases, click [here](#))

Ensuring safe pharmacist practice

Making the health and wellbeing of the patient your first priority is the main tenet of professional practice. Obligations arising out of this include ensuring that ill-health does not adversely impact practice, and an implicit requirement to report your own or others' situation (whether health, competence or conduct) to the Pharmacy Council if there are public safety implications.

Ms E admitted to the charges of creating false prescriptions to obtain codeine, after pleading guilty to the criminal charges heard at the District Court. She submitted a psychiatric report, applied for a discharge without conviction and this was granted.

However, she had not disclosed any information of her health problems to Council at any time leading up to the court hearing. This was relevant to the HPDT's decision on penalty.

If she had disclosed her health to Council so that her fitness to practise could be monitored, this may have prevented her offending.

Mr S Taylor worked at Mr P Wong's pharmacy and during this time the sales of excessive quantities of over-the-counter codeine products became common practice. Rather than reporting this unsafe practice, he was complicit in this practice and was charged with misconduct in relation to supplying restricted medicines and for failing to raise concerns about Mr Wong.

Bringing concerns about the practice of others to Council's attention (even if this is anonymously) allows pharmacists to discuss their concerns and consider actions to protect the public.

Abuse of professional position

Council became aware of criminal charges against Mr Wong in 2015 relating to serious allegations raising concerns about the safety of his practice. Council was alarmed that the alleged offending had resulted in vulnerable patients overdosing with serious consequences for two patients (death and hospitalisation). A restriction notice had been issued for one of these patients, because of the high risk of him taking an overdose. Despite this Mr Wong supplied zopiclone to him without a prescription on more than one occasion and against prescriptions known to be fraudulent. Council ordered the interim suspension of his practising certificate, prohibiting practising whilst investigations were ongoing, (criminal and then professional).

In 2016 he was convicted at North Shore District Court of charges relating to supplying, prescription medicines without prescriptions, falsifying a prescription and supplying excessive quantities of restricted medicine.



These concerns are subsequently reflected in the HPDT decision which included the cancellation of his registration. The decision stated: *'In our view, Mr Wong has taken advantage of his professional position for financial gain and failed in his duty to act as a gate keeper for patient safety'*.

The offending, whilst at the most serious end of the scale, illustrates the significance of pharmacists' responsibilities and the consequence of breaching public trust.

Professionalism is not 'Nine to five'

Principle 4 of the Code of Ethics expects that a pharmacist acts with honesty and integrity and maintains public trust and confidence in the profession.

Two cases (Mr Tiong and Ms E) relate to conduct that was not directly related to pharmacy practice. In such cases, the defendant often challenges the relevance of the conduct to pharmacy practice, but the public always expects appropriate conduct from health professionals regardless of the context.

Mr Tiong breached a pharmacy student's privacy when he shared intimate details about his relationship with her in an extensive email to her class colleagues. The HPDT found that this conduct brought or was likely to bring disrepute to the profession.

Whilst Ms E's pharmacist knowledge was relevant to the offending, it was not directly relevant to pharmacy practice. However, the HPDT determined that the dishonest conduct was a serious departure from the ethical and lawful conduct expected of a practitioner.

Misconduct can be cumulative

Mr Musuku was charged with professional misconduct having committed acts or omissions that amounted to malpractice or negligence and had brought (or were likely to bring) discredit to the profession. These acts or omissions related to breaches of pharmacy licence condition, failure to maintain standards for the custody of controlled drugs and unethical conduct in relation to Medicines Control audits. Mr Musuku argued that the shortcomings were minor or were remedied promptly. However, the HPDT agreed that the repeated failure amounted to misconduct.

This case is a caution to pharmacists who might consider that an occasional lapse in practice standard is acceptable. This attitude may lead to a pattern of poor performance with the potential to become misconduct.

Costs

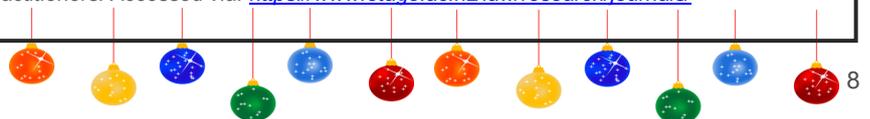
We are aware from various conversations with pharmacists that the disciplinary cost awards at the HPDT is not well understood. When charges are found against a pharmacist, the HPDT awards costs to the Professional Conduct Committee. The cost awarded for the five most recent cases varied from 25% to 50%. Each decision will specify what percentage of the total cost of investigation and hearing is borne by the individual. By implication, the remaining costs are covered by the pharmacy profession, as each practising pharmacist pays an annual disciplinary levy to the Council.

A study comparing the Legal and Conveyancers Disciplinary Tribunal, (LCDT) to the HPDT¹ highlights the difference in approaches to cost. The LCDT makes decisions on costs on a case-by-case basis. In contrast, the HPDT views 50% of total costs as a starting point, adjusted up or down to account for the individual case. In practise, the awards tend to be 50% or below, rather than above. This is not because of statutory requirements, but due to the precedence set by a 1995 High Court appeal by a medical practitioner.

The main consideration relates to minimising the financial burden on the profession, but the practitioner is given credit for admissions of guilt and co-operating with the disciplinary process. Notably, in the Mr Taylor decision, the HPDT whilst recognising that in many cases the costs are not recoverable, comments that *it may well be that the time has come to consider whether a starting point of 50% of the costs involved sets the bar too low*.

Anecdotally, it has been reported that in comparison to other tribunals, the HPDT recovers a smaller portion of the costs from the offending practitioner. However, no report could be cited to confirm this. The prosecutor acting on behalf of the Professional Conduct Committee can, and often will, argue for higher costs awards, but if the costs awarded exceeds 50%, there is a risk that the HPDT's decision will be successfully appealed at the High Court, unless there are clear reasons to override the precedence.

¹ Alice Selby, University of Otago, 2012: *Protecting the Public and Maintaining Professional Standards: A Comparison of Disciplinary Tribunal Action Concerning Legal and Medical Practitioners*. Accessed via: <https://www.otago.ac.nz/law/research/journals/otago043933.pdf> (17 December 2018)



REGISTRATION, COMPLAINTS AND DISCIPLINE

Removal of Name from the Register

Council has been attempting to contact pharmacists who have not updated their registration status in 2018. We revise the register each year and remove individuals that have not responded to several messages. We use the email and postal address on our records, but we have not heard from the pharmacists listed below. If you know any of these pharmacists and you consider they would prefer to remain on the register, please ask them to contact Council as soon as possible via enquiries@pharmacycouncil.org.nz.

Kiri	Louise	Aikman	Samuel	Paul	Loevendie
Yvonne	Chun Yee	Au	Mary-Anne	Margaret	Luke
Lynaire	Patricia	Barnden	Jeremy		Ly
Ekta		Bhindi	Olivia	Eileen	Lyons
Grant	Howard	Blair	Vicky	Lela	Ma
Debra	Susan	Brokenshire	Cristine	Abellera	Manalo
Janine	Patricia	Buxton	Nur	Amni Binti	Mat Serudin
Neville	Meredith	Cameron	Janet	Anne	Millar
Gerard	Andrew Ho Sum	Casey	Ryan		Moxham-Smith
Christina	Ming Gee	Chan	Christine	Ann	O'Donnell
Srey	Sros	Chhim	Terrence	John	Osborne
Chung	Ling Flora	Choi	Benny		Pan
Lisa	Pin-Yi	Chu	Tania	Briar	Paul
Margaret	Noreen	Cole	David	Alan	Perry
Gemma	Victoria	Connor	Marleen	Yvette	Plate
Rhian	Mair	Daniel	Michael	John	Poland
Nina	Kumari	Dhaia	Meriel		Pope
Marwan		Dikhil	Evelyn	Gerardine	Raj
Alyssa	Clare	Duncan	Ajay	Prabhulal	Raniga
John	Dominic	Fredatovich	Radhika		Reddy
Moira	Isabelle	Gibb	Craig	Richard	Rundle
George	William	Gray	Sashika	Jayamali	Samaranayaka
Ross	Andrew	Hobson	Ian	Geoffrey Stanton	Sharp
Travis	Martyn	Hoy	Jacob		Siu
Marysia	Franciszka	Jaskiewicz	Richard	Gary	Syme
Bruce	Antony	Josling	Constance		Takawira
Shiu Wei		Kan	Kai	Zong	Teo
Rita		Kettoola	Vishal		Trivedi
Priscilla	Hwa Mok	Kim	Sarah	Gabrielle	Troughton
Marwan		Dikhil	Anna	Thuy Nghi	Truong
Jeremy	Scott James	Kotua	Romy	Vanessa	Van Schalkwyk
Puisai	Phoebe	Kwan	Ian		Vickers
Delpia	Ji-Yea	Lee	Aodesho	Z	Wardi
Suen	Hao	Lee	Heather	Mary	Whineray
Mark	Hu	Li	Ivan		Wong
Chen-Hao		Liao			

YOUR VIEWS NEEDED

Pharmacy graduates who are considering leaving the New Zealand Pharmacy Profession — interested in filling in an online questionnaire?

Dr Trudi Aspden at the School of Pharmacy, UoA is interested in exploring the views and reasoning of pharmacists who have left the NZ pharmacy profession (or considering leaving in the next few years).

If this describes you (and you graduated after 2002) you are encouraged to contribute to her research and the details of how to do this are below.



MEDICAL AND
HEALTH SCIENCES
SCHOOL OF PHARMACY



To pharmacy graduates who have left, or are considering leaving the NZ pharmacy profession

This is an invitation to complete a 10-20 minute anonymous online questionnaire. Eligible participants are those who:

- Completed a pharmacy undergraduate degree between 2003 and 2018
- Have left or are seriously considering leaving the NZ pharmacy profession within the next few years

Benefits of completing the study include:

- Having an opportunity to share your views on the current state of the NZ pharmacy profession
- Your views could facilitate the retention of recently registered pharmacists, inform BPharm education and postgraduate training and assist with achieving the expansion in roles of pharmacists that have been advocated in the New Zealand Health Strategy and the Pharmacy Action Plan.
- The opportunity to enter a draw to win one of 2 x \$100 Westfield vouchers.

Please visit <http://bit.ly/losttopharmacyNZ> to gain access to the Participant Information Sheet and the survey.

If you know of anyone who may be eligible to complete this survey it would be greatly appreciated if you would forward this message on to them.

Thank you,
Munya, Trudi and Rhys
Lost to the NZ Pharmacy Profession Research Team

This study was approved by the University of Auckland Human Participants Ethics Committee on 6th September 2018 for three years. Reference number 021578.

