

19 April 2023

HCPC response to the Welsh Government's consultation on the mandatory licensing of special procedures in Wales

About us

The Health and Care Professions Council (HCPC) is a statutory regulator of 15 health and care professions in the United Kingdom. Our role and remit is underpinned by the Health Professions Order 2001. We maintain a register of professionals, set standards for entry to our register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our role is to protect the public.

Response to the consultation

We welcome the opportunity to respond to this consultation. As a healthcare regulator our primary objective is public protection.

When undertaken incorrectly, the special procedures outlined in the consultation document may have adverse and harmful effects and we therefore welcome the Welsh Government's commitment to ensuring that these procedures are carried out in a safe manner.

The majority of the questions in this consultation relate to specific details about the licensing scheme and the procedures involved which are outside of our regulatory remit. We have therefore focused our response on the question relating to the proposed exemption to the licensing scheme for certain HCPC registered professions.

Question 11 - Do you agree with the principle of this proposal that the statutory registered HCPC named professions of chiropodists/podiatrists; physiotherapists; prosthetists/orthotists should be exempt? Are there other professions on this register that should have an exemption?

As outlined above, part of our role is to set the standards that our registrants must meet to maintain their registration with us. Our [standards of proficiency](#) are the threshold standards which set out what a student must know, understand and be able to do by the time they have completed their training, so that they are able to apply to register with us. Once on our Register, registrants must continue to meet those standards of proficiency which relate to the areas in which they work. We also set [standards of conduct, performance and ethics](#), which set out how we expect our registrants to behave and [standards of continuing professional development](#) about how registrant must keep their skills and knowledge up to date. Finally, we set [standards of education and training](#) against which we assess education and training

programmes to ensure that learners who complete these programmes are able to meet our standards of proficiency.

We keep our standards under continual review to ensure that they reflect current practice, and we hold a periodic review of the standards every five years. We most recently reviewed our standards of proficiency, with the updated standards coming into effect on the 1 September this year. We are currently undertaking a review of our standards of conduct, performance and ethics, with a review of our standards of education and training planned for next year.

In our standards of proficiency, we set threshold levels that we consider best protect the public. This includes standards that are generic (these apply to all the professions we regulate) and those that are profession-specific to set out clear expectations of our registrants' knowledge and abilities when they begin to practise. We therefore have profession-specific standards of proficiency for the three HCPC professions mentioned in the consultation. Registrants are expected to work within these standards throughout their career and consider them in the round when undertaking their practice.

The profession-specific standards that we provide for registrants to follow outline what patients, service users and the public should expect from their healthcare professional. As an outcome focused regulator, we do not prescribe the exact duties or tasks that the registrant could or could not do. However, our standards do set the expectations of the skills, knowledge and functions that the registrant should be able to safely undertake within their certain role.

The standards of proficiency require registrants to practise safely and effectively within their scope of practice (Standard 1). Our standards of conduct, performance and ethics also specify that registrants should keep within their scope of practice by only practising within the areas of which they have appropriate knowledge, skills and experience (Standard 3.1). Finally, we expect registrants to refer patients and service users onto another professional if they cannot provide appropriate care or treatment as it is beyond their scope of practice (Standard 3.2).¹

As noted above, we do not define the scope of practice or what tasks and duties our professions should or should not perform. We provide [guidance](#) on our website as to what scope of practice means and guidance for professionals in ensuring they are working within their scope of practice at all times. We acknowledge that the scope of practice of a registrant may change over time, as they progress through their career and enter into more specialist practice roles. In these cases, the scope of practice may become narrower in scope as registrants specialise.

Registrants should consider whether the activity they are looking to undertake is something that would fall into the general scope of practice of their role, whether they have had the appropriate training to undertake it safely and effectively, whether the activity is restricted by law and if so, are they legally able to carry it out, and whether their indemnity insurance would cover that activity.

¹ [Scope of practice and the standards | \(hcpc-uk.org\)](#)

In defining profession-specific scope of activity, professional bodies can provide further advice and guidance.

Our registrants renew their registration every two years. We expect registrants to demonstrate their continuing professional development, in line with our standards, and randomly select registrants for audit during renewal, to ensure they are continuing to meet the HCPC's standards and continuing to practise within their scope.² In addition to this, we have a robust fitness to practise process in place to investigate any concerns raised about a registrant's fitness to practise, including where registrants are not working within their scope and therefore not meeting the standards required to practise. We use the standards to measure whether the registrant's practice has fallen below what we would expect.

If the professions outlined above were to be exempt from the special procedures licensing scheme as proposed, to meet their obligations as a registered professional, they would need to ensure that this activity was within their scope of practice following the principles set out in our guidance. We welcome the fact that this is also reflected in the limitations proposed to the exemption (para 7.13). We also support the other limitations set out in that paragraph, i.e., that professionals must have the correct indemnity insurance, that they should be performing the special procedure within a healthcare setting regulated by the Healthcare Inspectorate Wales, and that if their registration ended for any reason then the exemption would not apply to them, and they would have to apply for a special licence. These limitations align with our regulatory approach.

We would encourage you to also engage further with the professional bodies on this matter. We would be happy to facilitate discussion and provide any further information, as would be helpful.

² [CPD audits | \(hcpc-uk.org\)](https://www.hcpc-uk.org/cpd-audits)