

The differences between regulators and professional associations

Sue Calvert

There is often confusion around the differing roles of regulators and professional associations. This article hopes to clear up some of the confusion to support practitioners' understanding.

For simplicity, the differences are quite clear: health regulators are established under legislation, which in the case of those registered by Te Kaunihera Pūtaiao Hauora o Aotearoa | the Medical Sciences Council, is the Health Practitioners Competence Assurance Act (HPCA) (2003) (1). The role of regulators is to protect the public by making sure that people who are registered with them are fit and competent to practise their profession. The focus therefore of the regulator is the safety of the person receiving health care.

Members of the Council are appointed by the Minister of Health and are accountable to the Minister. Council members are appointed to govern the organisation, that is they are responsible for setting the organisation's strategic direction. This is an important role as it means they are setting the direction for the

regulation for members of the profession. Each year the Council provides an annual report to the Minister that describes the work it has undertaken in relation to its obligations under the Act.

Professional Associations are not established because of legislation; their purpose is to represent and advocate for their members. The focus of the professional association is the practitioner. The executive of the professional association is accountable to its membership.

There are some other key differences too, for example you must be registered with the Council and hold a practising certificate in order to be able to practise within the medical laboratory science gazetted scopes of practice in Aotearoa | New Zealand; membership of a professional association is not mandatory. Further, while the Council accredits programmes of education, its role is not to provide education to its registrants. The provision of education and programmes of ongoing competence is one of the primary purposes of the professional association. (Figure 1.)

Difference between the Council and Professional Organisations

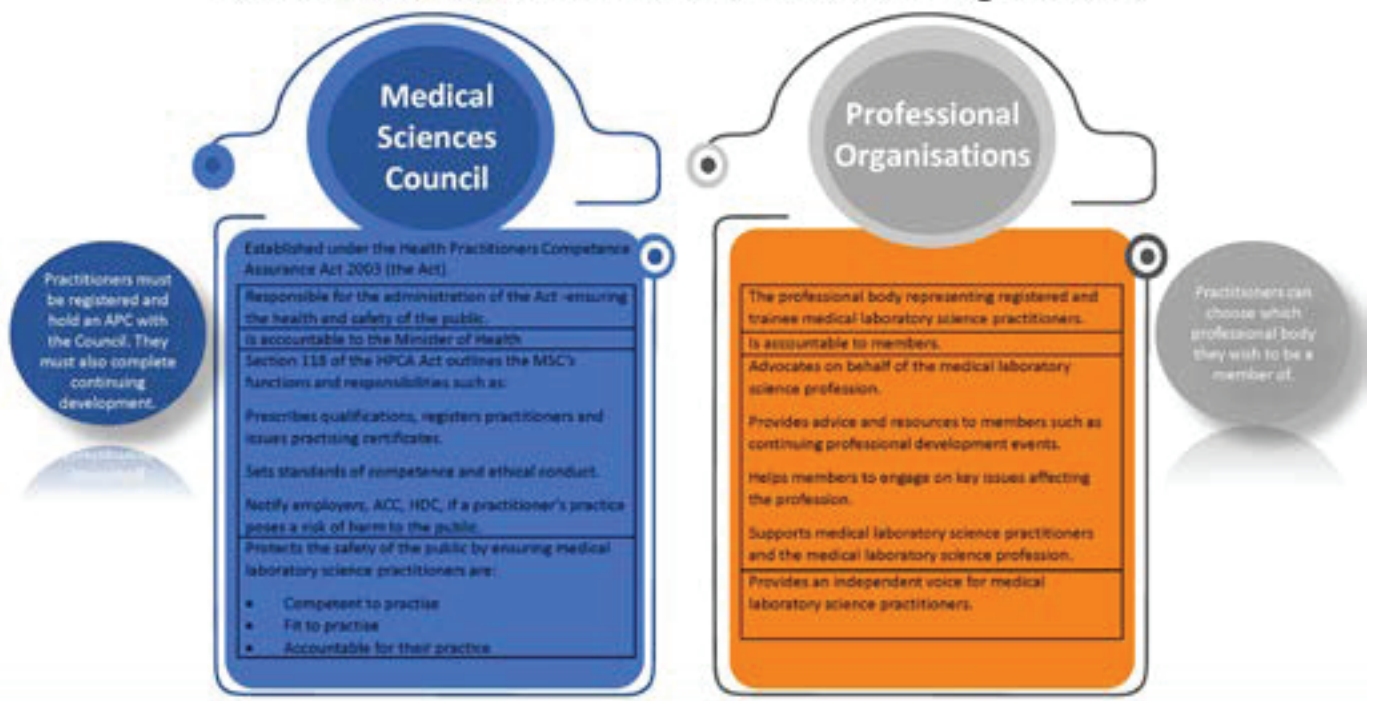


Figure 1.

So what do regulators do?

The purpose of the Medical Sciences Council is described within the HPCA Act. The functions are clearly articulated in section 118. In summary they are as follows:

- To prescribe the qualifications required for scopes of practice and to accredit and monitor programmes of education. The Council does this through its approval and accreditation of the qualifications that lead to registration. Each year it also monitors these programmes against the accreditation standards. As part of this work, the programmes of education that lead to entry to the register for Medical Laboratory Technicians have been approved by the Council.
- To authorise registration of suitably qualified practitioners and to consider applications for practising certificates. Once graduates have completed their qualification, they are able to apply for registration. Internationally qualified applicants wishing to practise in Aotearoa | New Zealand are assessed against the relevant Aotearoa | New Zealand standards and

education programmes. Each year practitioners must apply for and be granted a practising certificate in order to be able to work.

- To set standards of competence, cultural competence (including competencies that will enable effective and respectful interaction with Māori) and ethical conduct to be observed by health practitioners. This is one of the key functions of the Council and the codes and competencies are the standards against which practice is assessed.
- To set programmes of ongoing competence to be observed by members of the profession. One of the key aspects of the HPCA Act is the requirement for practitioners to be able to demonstrate their ongoing competence. The Council uses the recertification programme and audit of practitioners' compliance with these requirements to reassure itself of the ongoing competence of practitioners. While the Council set the standards, i.e. the hours and requirements for

practitioners, it is the professional association that takes the lead in the provision of programmes of ongoing competence. As with the pre-registration programmes, the Council has also approved the association's ongoing professional development programme as a way that its members can comply with the Council's continuing professional development requirements.

- *To consider complaints and notifications about practitioners and to notify certain agencies if a person's practice poses a risk of harm.* While the number of complaints and notifications are small, the impact on the practitioner can be large. For example, if there is a belief that a practitioner may pose a risk of serious harm because of a lack of knowledge, because their health is significantly impacting on their ability to practise, or because their professional behaviour may bring the profession into disrepute, then the Council has the ability to restrict or stop someone from practising while it takes the necessary actions. While people may complain to the professional association it has no mandate to act on any complaints about a practitioner, nor to take any action in that regard. Some professional associations do provide advocacy, support or legal advice for practitioners who are working through matters related to fitness to practise or conduct.
- *To promote education, inter-collaborative practice and public awareness of the authority.*

The functions outlined above are the day-to-day business of the staff at the Medical Sciences Secretariat. Our teams are set up to ensure that we carry out these functions and that we have the right systems and processes in place to ensure a responsive but proportionate regulatory approach to matters. Our work is predominantly focused around registration, practising certificates and audit of practitioners, but we also have a work group that focusses on education accreditation matters and another that focusses on complaints and notifications. In 2021 we were audited by Manatū Hauora | Ministry of Health against the requirements of section 118 of the Act. The report following our audit can be found on our website (2). Since this time, we have actively worked to address the matters identified in our audit and an update on those matters can be found in our most recent annual report.

The interface with the professional association

The professional association is one of the Council's key stakeholders. The Council liaises with professional associations

on matters of common interest, for example as part of the review of the scopes of practice, members of the professional association provided advice to the Council. The Council also seeks its advice on matters related to practise. Media enquiries regarding pay or employment issues are always referred to the professional association or union, as setting pay and conditions of employment are not the role of the regulator.

The professional association is the key agency with regards to promotion of the profession. Its role is to advocate for the needs of practitioners. While both the regulator and the professional association link in with other agencies, Manatū Hauora, Te Whatu Ora and Te Aka Whai Ora, for example, our focus and motivation for engaging with the two organisations is different. For example, the professional association would have an interest to advocate for terms and conditions for its members, while the regulator would note that there were issues or questions about the workforce but would consider the implications for the public. While the professional association would actively promote careers in science, the Council needs to ensure that its policies and procedures for entry to the profession ensure that those seeking registration have the required knowledge and skills for contemporary professional practice.

In summary, both the regulator and the professional association are essential for the development of a profession and for the safety and wellbeing of the communities they serve. Regulators are focused on using the regulatory mechanisms that they are enabled with to ensure the health and safety of members of the public. While professional associations advocate for their members and provide education to support their ongoing competence to practise.

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2. Ministry of Health, Medical Sciences Council of New Zealand. MSC-RA-Review-Report-Aug-2021. 2021; Available from: <https://www.mscouncil.org.nz/resources-2/>