Dental Council Recertification – Phase two consultation

Submission: **New Zealand Dental Association**

Submitter: **David Crum (Chief Executive)**

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The New Zealand Dental Association presents this submission in the following format:

- General comments - overview
- An alternative proposal for discussion
- Answers to specific questions Dental Council has asked

We understand submissions are generally easier to review when specific questions are asked and answered, and that form of submission may suit individual practitioners. It is our view that Recertification is a complex subject, requiring considerable thought and presentation of a more detailed position. As such, it is our hope that in addition to the collated 'short form' submission responses that, all Council members will have the opportunity to read this submission in its entirety.

GENERAL COMMENTS - Overview

Balance

1. The DCNZ Recertification presentations centred strongly around a stated objective of presenting a balanced approach to the future recertification of its registered practitioners.

2. In the context of a balanced recertification model, the Association's view of 'balance' can be pragmatically described as being, best use of limited resources, applied in priority order, across the range of activities required to 'ensure' public safety and practitioner competence.

3. Efforts can be made to improve the likelihood that compliance, safety and competence eventuate, but with an estimated 20,000+ patients seen by our members every working day, realistically, neither public safety or practitioner compliance (performance or competence) can be ensured (in isolation) by a Responsible Authority through a process of recertification.

4. Increased compliance and safety are more likely if the practitioners involved have confidence in the system, believe in its relevance and effectiveness and, retain sufficient self-regulation and voice within their professional environment.

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The Council's policy objectives are listed as being: [1]

- assuring the public their oral health practitioners are competent and fit to practise
- managing practitioner competence and the prevention of competence decline
- identifying at risk or unsafe practitioners

5. With these stated objectives in mind, the NZDA believes Dental Council's proposed recertification model does **not**:
   - achieve the appropriate 'balance' or resource allocation nor,
   - significantly enhance or 'ensure' protection of the public or safe and competent dental practise.

6. The Council's documentation lacks evidence for the changes proposed and, in some regards, presents illogical conclusions and actions. Further detail of this point can be provided if required, but essentially given the information Council has available and appears to rely on, this year's DCNZ Annual Report again highlights that dentistry is practiced competently when considering the number of complaints in total and those upheld.

The Dental Council has proposed action in four listed areas:

- New core recertification programme (essentially new CPD requirements)
- Support new graduates
- Address health related competence decline
- Address recurring non-compliant behaviour

7. It is the Association's view that the fourth area, as presented in the proposal, is very much short of what is required. We believe the Council has sufficient powers under legislation to address recurring non-compliant behaviour. The proposal lacks sufficient proactivity in this area and this has resulted in the imbalance we believe the proposal presents.

8. If the compliance requirements (Practice Standards) are sensible, relevant, achievable and particularly if they are led responsibly profession (e.g. NZDA Codes of Practice), then identifying and addressing non-compliant behaviour should be the emphasis and not universal additional requirements as laid out in the Council's proposal.

To summarise

9. The imbalance is that this proposal is seen as 'frustrating the majority with further requirements to still not catch the few that need to be caught' and we wish to present an alternative proposal with respect to where the effort should be centred, and we do so in addition to answering the specific and directed questions Council has posed for consultation.

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The Association on behalf of members we present the following thoughts which lead us to the following proposal and need for more discussion thereof:

The process

10. We thank the Council for the many meetings it has undertaken to present its proposed revised recertification process. It has undoubtedly been a big undertaking. The meetings provided to our members were well presented by skilled and informative presenters.

11. However, the consultation process has had a timeline that in our view precludes effective consultation, and this is frustrating and disappointing to us. Specifically, the Council have taken nearly a year to analyse the earlier feedback (and rightly so, it is important to get this right) but has given stakeholders less than 3 weeks (following the last DCNZ 'roadshow' meeting) to absorb the proposed changes and make submissions. This limits responses largely to individuals without the benefit of collegial discussion and the further advantage of collective thought development.

12. Council has effectively provided no practical workable time for the Association (voluntary membership of more than 98%) to absorb the information presented at the meetings. Our Branches have struggled to provide a truly collective representative response. Some unable to meet the deadline.

13. In effect, Council have constructed a process that disallows a significant representative body to test support (or otherwise) via discussion amongst our membership or development of better alternatives.

14. The above is disappointing because it disempowers the Association and our significant and valuable role in dentistry, practice standards, compliance, resourcing professional development, providing collegial support, wellness and mentorship programmes.

To summarise

15. The Association would have preferred additional time to absorb what Council has presented, listen to the discussion and having listened to it propose and test feedback on an alternative model which we believe better addresses the Council's responsibilities to the public. We seek further discussion.

The reasons

16. The feedback we have received from practitioners indicates to us that many believe the impetus for the proposed new model is largely related to possible future auditing of regulatory bodies [2] and the Council itself has concerns that it will be shown as not having enough robust activity to support its reason for being (protection of the public).

17. The proposal appears, in large part to be more about being able to demonstrate Council activity than being about really grasping, within existing and realistic resources, improved and measurably improved public protection.

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18. We wish to suggest a more meaningful and relevant priority activity for Council than the proposed emphasis requiring 'blanket' Professional Development Plans, Professional Development Activities, Peer Attestations, age related eye tests, and widespread unsustainable mentoring programmes.

Earlier indications and conclusions have had insufficient attention given to them

19. It is our view, that the first-round consultation produced a position that stakeholders were wanting better balance achieved through evidence based targeted action and not additional blanket requirements across all practitioners.

20. It is the Council's responsibility to ensure protection of the public, and the Association believes the current proposal fails in that regard, essentially because far too much emphasis has been given to additional further requirements being placed on all practitioners and very little emphasis on strategies that target real problems that may exist.

To summarise

21. In our view the wrong balance is proposed. The result is a missed opportunity and the likelihood of little meaningful result. Identifying risk and acting on it was, and is, the call.

The current proposed recertification model – illogical and lacking evidence.

22. Given the very clear position of Council is that the majority of practitioners are competent and practice safely, it appears illogical and unnecessary for the Council to impose further requirements on that majority, particularly when done in the absence of better measures being proposed to deal with the small minority who need to be dealt with.

23. The current and extremely low number of notifications Council has received lacks virtually all robustness on which to base change. In our view such extensive reliance on a small volume of notifications is an illogical approach and Council has never really looked at on-site dental practise.

24. The Council's proposed recertification model emphasising further requirements for all practitioners is very likely to lessen the status of the Council in the eyes of practitioners, and this is also of concern to the Association.

25. We believe that an over reliance on overseas data and experience with respect to complaints and competency is misplaced. Overseas jurisdictions operate in a different social, third party insurance, legal and judicial environment and as such we believe that experience should be applied cautiously to the unique New Zealand situation.

Summary

26. It is our conclusion that the document reads well and was presented well, but that much of the current proposal will do very little to further ENSURE public protection over and above the current levels.
27. The Association is of the view that retaining the 'buy-in' of the profession is extremely important and that building and maintaining a professional ethic and ethos is fundamental. Amongst that is the importance of not

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destroying confidence in the regulatory authority through imposition of additional blanket requirements that are seen to be of questionable value having been presented without evidence of need or of efficacy.

AN ALTERNATIVE PROPOSAL (FOR DISCUSSION)

It is our contention that further discussion of an alternative proposal is required, and we hope the following is seen as a constructive proactive response.

28. It is our view that the current proposal maintains a significant failure in Council's actions with respect to measuring compliance needed to 'protect the public' and there is a need to rethink the approach Council is suggesting because the Council is not delivering what the profession described as being required, and the public need.

29. It is also clear that our earlier position (presented at the initial recertification forum) regarding performance, needs reiterating because there is insufficient progress in this area being suggested within the current proposed recertification model. In our experience, if there is a problem, in the main, <u>it is not with the competence of dentists, it is with distractor led performance 'dip' or sustained decline.</u> Throughout a career a dentist's performance is not entirely uniform.

30. As with the general public, for many dentists various distractors (health related, business/financial, relationship, drug/alcohol dependency) come into play and this results in performance dip and in some circumstances sustained performance decline. There needs to be an effective identification of these distractors (and times) followed with supportive performance management pathways available. Whilst collegiality and CPD interactions, and all the connectivity Association activities provide are fundamental to preventing isolation compounding distractors and performance dips, the Council very much needs to reconsider there is a need for better identification of those impacted by distractor led performance issues.

31. The Association understands that the Council has limited resources and therefore we strongly believe, in the <u>first instance and in pursuit of protecting the public, these existing limited resources should be prioritised to actions that identify and focus on those most likely to put that protection at risk.</u> That is the balance that should be being proposed.

32. The literature search regarding recertification conducted by Council has been summarised by the Council as stating:
    - *'the majority of practitioners comply with requirements and act in a professional manner that supports lifelong learning and the ongoing acquisition and improvement of knowledge and skills which inform their practise'* [3]
    - *'public safety is paramount and there is a need to identify risks and risk factors and intervene early with practitioners experiencing difficulties.'*

33. Various options that utilise collection of reliable data and then provide a targeted response particularly toward highest probability public safety issues <u>is the balanced approach</u> required.

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34. Logically, with these conclusions in mind, any revised Recertification model, should first apply resources to the area of identifying and dealing with the small minority who are not compliant.

Compliance - indicator audits

35. Further to the above, it is our belief that it is relatively simple to identify a simple set of most significant safety issues within the compliance requirements stipulated in the NZDA Codes of Practice and the DCNZ Practice Standards. It is possible to do so in a contemporary and appropriate timely reviewed fashion.

36. It is our belief that both the Council's Professional Advisor and the Association's CEO and DPL staff hold this information. Examples might be:
    a. Tested, properly functioning autoclaves with monitoring as mandated in the Practice Standard
    b. Clear demarcated 'dirty to clean' instrument flow and appropriate storage of all processed instruments as mandated in the Practice Standard
    c. Updated medical histories and emergency equipment available as mandated in the Practice Standard

Safe competent clinical practice – indicator audits

37. As with compliance issues, the same exists (but probably to a lesser extent) for clinical parameters. There are most likely, easily identified and easily audited clinical indicators of competent or desirable care.
    Current examples might be:
    - evidence of periodontal screening within patient records
    - evidence of use of rubber dam for endodontic procedures

Identification of distractors and performance dip or decline – indicator audits

38. This is a more difficult area to measure but further thought needs to be given with respect to the recertification model supporting and enhancing the NZDA Wellness Initiative. Whether there are auditable simple measures available needs to be explored and the Association would welcome assisting Council to develop better ways of such identification followed by Association/profession led supportive performance management pathways. We believe this to be a better use of resources than the unsustainable 'all new registrants requiring mentoring' suggestion Council is currently proposing.

39. These simple objective aspects should be widely audited, and this can be done in a cost-effective way.

40. The literature search also contains the following summary statements: [3]
    - *recertification is necessary, but its intensity and frequency need to be proportionate to the risks posed by practitioners*
    - *recertification must be simple, fair and affordable*

41. The Association believes a volume of audits of these simple indicators would be a far better application of the levies practitioners are required to provide to fund the Council's activities.
42. It remains the Association's strong view that monies spent by Council (large sums) duplicating the responsible and considerable activities of the Association's Codes of Practice development would be better spent auditing basic indicators of compliance and competent practice.

43. It is our suggestion that as an Association we would wish to be annually involved with Council in identifying simple objective auditable aspects of dental practice that Council could audit the following year. The Association is not advocating a hugely costly, intensive, exhaustive auditing system.

44. It is our belief that such a system would be far more likely to demonstrate public safety and competent practice than, the Council's suggested Professional Development plans, mentoring systems, eye sight tests and peer attestations.

CONSULTATION QUESTIONS

1. ***What, if anything, do you like about our proposed core recertification programme?***

- Professional development plans (PDP), professional development activity (PDA) and reflection are sensible, self-initiated professional imperatives and this is supportive of individuals determining their own professional development needs.

- A shift of the singular focus from attending any CPD just to achieve CPD hours is recommended, and the Association, back in 2003-4 presented to Dental Council such a system where hours balanced across clinical, communication, standards (ethics, informed consent, record keeping, risk management etc), and practice management. There is a professional obligation on all practitioners to remain competent in their scope and there should be the continued expectation that CPD attended over several cycles reflects that scope.
- Recognition that peer contact is important and CPD activities remain an important vehicle for those interactions
- A baseline number of CPD hours should be retained so that collegial interaction (and substantial benefits derived) continue throughout the practising lives of all practitioners.

2. ***Is there anything about our proposed core recertification programme you would change? Please explain.***

Retain the existing programme (do not introduce the proposed model) and address the need for indicator audits and supportive follow-up where deficiencies are identified. Target resources where they are most needed.

Because

- The first-round consultation produced a position that stakeholders were wanting better balance achieved through evidence based targeted action and not additional universal requirements across all practitioners.

- It is the Council's responsibility to ensure protection of the public and the Association believes the current proposal fails in that regard, essentially because far too much emphasis has been given to additional further requirements being placed on all practitioners and very little emphasis on strategies that target real problems that may exist.

- Lack of evidence required for the proposed change has been provided.

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- Documents supplied by Dental Council lack sufficient detail and the additional core recertification requirements for all practitioners are not required, some are unworkable, and none (in our view) will significantly improve public safety.

- This model lacks a targeted approach and no improvement in identifying at risk or poorly performing practitioners. The likely result is ongoing reliance on notifications which, in our view is a poor substitute.

- Peers generally do not want to take responsibility for another's activities, generally this aspect of the proposal is seen as not only onerous but also being fraught with conflicts of interest, bias, and the annual attestation (poor descriptive) is seen as too short a period.

- PDPs and PDAs – this is poorly conceived, and the proposal presents a lack of clarity and detail, fails to acknowledge the difficulty planning into the long-term future when courses are announced in the short-term and the criteria, guidance and general information regarding 'reflection' is lacking. In our view the emphasis on these elements is misguided and are not what will assist to 'protect the public'.

- There is real concern regarding additional time and resources to comply, for those the Council has already stated (a vast majority) are compliant and competent.

- In our view the wrong balance is being proposed. The result is a missed opportunity and the likelihood of lack of meaningful result. Identifying risk and acting on it was, and is, the call.

- Given the very clear position of Council is, the majority of practitioners are competent and practise safely, it appears illogical and unnecessary for the Council to impose further requirements on that majority, particularly when done in the absence of better measures being proposed to deal with the small minority who need to be dealt with.

- The current and extremely low number of notifications Council has received lacks virtually all robustness on which to base change. In our view such extensive reliance on a small volume of notifications is an illogical approach and Council has never really looked at on-site dental practice.

Should Dental Council progress these elements (PDP, PDA) then:

- All elements need better explanation and development.

- Better definition of all aspects around peers (definitions, responsibilities, accountabilities, issues of conflict and bias etc is required).
- The concept that peer contact needs to be a one-on-one structured conversation about a PDP is restrictive and needs rethinking.

- Peers needing to see a PDP and associated activities and issues that will arise; what is the penalty of non-compliance? Why would dentists get involved? These issues need to be assessed and addressed.

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- The lack of opportunities to undertake relevant professional development activities in many areas. Unable to forecast when they will be available is a significant problem that needs to be addressed.

3. ***Do you support our proposal to change the recertification cycle to 12 months? Please explain.***

No
Because:

- Not convinced by Dental Council that an annual CPD/ PDP/PDA activities cycle is better than the current one.
- No evidence has been presented that practitioner competence and recidivist activities would be identified earlier by the 'enhanced' annual recertification proposal.
- No evidence that Council would act more quickly than it does.
- Recertification (APC) is an annual cycle, practising certificates must be issued annually and not for longer periods. Programmes involved in assessing competency for recertification need not be annually as long as practitioners can show progress.
- Annual recertification may be challenging to practitioners who work part-time or who elect to take time away from practice i.e. the annual timeframe is too short, particularly for those taking time out to care for young children, sick or elderly.
- Sourcing the desired CPD needs to be spread over current timeframe.
- No valid reason has been given to alter the system.

4. ***Do you think our proposed core recertification programme should include a requirement for practitioners to complete an online open-book assessment of their technical and clinical knowledge and skills? Please explain.***

No
Because:

- Online open book assessment will not effectively test clinical and technical skills. This is a very poor aspect of the proposal
- No evidence that an open-book test is any better in determining compliance than a self-declaration.
- Knowledge does not necessarily translate into practice and accordingly will not assist Council in identifying those who are non-compliant
- Online testing of the Standards Framework documents may have some merit, but cost and administration implications need to be considered as well as what will be put in place when if a practitioner fails the assessment. Will an APC be issued for example?

5. ***If a proposal about an online open-book assessment of a practitioner's technical and clinical skills and knowledge is supported, how often should practitioners be required to complete an assessment (i.e. annually, every two, three, four, or five years)? Please explain.***

- Not supported for technical and clinical skills.

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- If online testing is on Standards Framework, then a sufficient level of testing (a meaningful proportion of the practitioners) annually.

6. ***Do you have other proposals about our proposed core recertification programme you would like us to consider? Please explain.***

   - Detailed previously in this submission – 'the alternative proposal'

7. ***What, if anything, do you like about our draft proposals for supporting new registrants?***

- The Association already has a successful and useful mentoring system in place for recent graduates.
- The DCNZ proposal re mentoring is unworkable and unsustainable.
- DCNZ risks compromising the existing well-resourced NZDA mentorship programme through depleting available mentors. This is of major concern to the Association.
- DCNZ proposal misunderstands what mentoring is, the costs involved, training required, and the resources entailed.
- The proposal risks being a disincentive to hire a new registrant.

8. ***Is there anything about the draft proposals for supporting new registrants you would change? Please explain.***

- The meaning of mentor in this context not well explained? Roles and responsibilities of mentors/mentees not outlined and appears that Dental Council under-estimates what 'manpower', resources and training are required to make mentoring effective.
- How will this dovetail into existing programmes – lack of detail and potential risk.
- Where will the mentors come from and there are not enough resources?
- Creates onerous and unsustainable burden on profession
- No information given as to the reporting role of mentors.
- Who will cover the substantial costs and where is the cost/benefit analysis?
- Reliance on goodwill how will Council mandate goodwill?

9. ***Do you think the proposed two-year minimum period for the mentoring relationship is too short, too long, or just right? Please explain.***

   - No evidence provided shows this is an appropriate time frame.
   - Duration of mentoring required for recent registrants will vary as do professional development needs

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- The current NZDA two-year mentoring programme for recent graduates is good as it is, and it has taken considerable resources and work to develop it.
- Adding a programme of two years for all new registrants is not possible unless done at a much lesser level. It will be impossible to sustain an ongoing two-year mentoring programme in NZ for all new registrants.
- Dental Council is encouraged to have meaningful discussion with the Association as to the existing programme before jeopardising it with what is being proposed and to gain a better understanding of what mentoring programmes involve.

10. Do you think all new registrants should participate in a mentoring programme, or are there some new registrants who should not be required to participate in a mentoring programme? Please explain.

- see previous answers
- It would be better for Dental Council to pay more attention to registration (and the initial practise phase of practice once registered) requiring understanding of conditions of practice in New Zealand and only fully register practitioners who can demonstrate the required understanding.

11. Do you have other proposals about supporting new registrants you would like us to consider? Please explain.

- New registrants should be expected to join their professional association, establish peer contact, participate in peer activities, and attend compulsory courses pertaining to practice conditions in New Zealand.
- If there is clear evidence that new registrants are not complying with standards or having difficulty adjusting to practice, then better education and assessment of applicants regarding NZ practice conditions and standards prior to registration, should be a requirement for registration.

12. What, if anything, do you like about our draft proposals for addressing health-related competence decline concerns?

- Lacks detail and lacks proactivity, lacks an understanding and commitment to be part of the wellness initiatives for practitioners.
- Eye testing
    - Presenters at the seminars repeatedly failed to show evidence (data) for the need of the proposed eyesight testing. Broad statements were their only recourse.
    - Eye examination is not required by any other health professional regulatory authority,
    - dentists already manage their own vision, magnification may be equally as important.
    - No evidence that deterioration in eyesight is unaddressed

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- No evidence that eye examination will result in use of corrective lens in clinical practice
- Recommendations to Council on this have a commercial value

- It seems little evidence has been demonstrated that can allow DCNZ to confidently make proposals that will address performance decline. The proposed mandating of eye-testing being a simple and somewhat irrelevant target.

13. Is there anything about the draft proposals for addressing health-related competence decline concerns you would change? Please explain.

- See alternative proposal

14. Do you have other proposals for addressing health-related competence decline concerns you would like us to consider? Please explain.

- See alternative proposal

15. What, if anything, do you like about our draft proposals for addressing recurring non-compliant practitioner behaviours?

- DCNZ proposal lacks detail and proactivity.
  .
- See alternative proposal and need to discuss this more

16. Is there anything about the draft proposals for addressing recurring non-compliant practitioner behaviours you would change? Please explain.

- See alternative proposal and the need to discuss this more

17. Do you have other proposals for addressing recurring non-compliant practitioner behaviours you would like us to consider? Please explain.

- See alternative proposal and the need to discuss this more.

18. Do you have any other comments, suggestions or information you want to share with us about the draft proposals for improving our approach to recertification?

As summarised below

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SUMMARY

1. The Dental Council proposal still does not clearly define the problem that the recertification programme is trying to address. No substantive evidence was produced in the initial round of consultation or in this round that demonstrated there to be a substantive issue with regards to competence.

2. There was no evidence produced that indicated the new process would be any better in addressing the 'issues' outlined in the first consultation.

3. The Council have failed to demonstrate how it anticipates the proposed scheme will achieve its objectives, which its stated to be, assurance to the public, managing competence, and identifying unsafe or at-risk practitioners. The proposal contains very little that enhances assurance for the public.

4. There has been significant variation in response from NZDA members to the proposals. There are potentially several reasons for this. A key issue was that the recertification programme options lacked detail and elements were unclear, e.g. definition of what constitutes CPD, the number of hours required, definition of a peer, how the peer attestation process would work, accountabilities, and responsibilities etc.

5. The proposed recertification model presents a 'balance' that is wrong. The preoccupation with further profession-wide requirements is unnecessary and disappointing. The best use of limited resources, being applied in priority order across a range of activities has not been demonstrated in the proposal.

6. The proposal is deficient of the expected further work on risk profiling and management through professional support strategies. As a result, targeted opportunities have been overlooked and expressions of profession wide frustration is a strong feature of our feedback.

7. The Association's own mentoring system for young graduates is at risk should the proposed 'over- reach' of mentoring be mandated for all new registrants.

8. The use of terms 'mentoring' and 'attestation' are poor descriptors and suggest insufficient research has been done into these aspects and the resource implications they entail.

9. The process has not allowed sufficient time for responses and consideration of alternatives. Increased compliance and safety are more likely if the practitioners involved have confidence in the system, believe in its relevance and effectiveness and, retain sufficient self-regulation and voice within their professional environment.

10. A reorientation and emphasis on <u>indicator</u> audits may be a better option and the Association requests further discussion on addressing the imbalance of approach that is proposed.

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References

1. figure 2: Our recertification framework – consultation document page 4
2. HPCA proposed 2018 amendments new sections 122A and 122B- Performance Reviews of Authorities
3. www.DCNZ.org.nz - Literature review, Executive Summary

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