

Standards Of Proficiency: The Legal Background

The Standards of Proficiency are the foundation of the regulation of healthcare professionals by the Health Professions Council as those standards represent:

- the threshold standards for entry to register;
- the minimum standards which HPC registrants must continue to meet throughout their professional life; and
- the minimum standards which registrants will be judged against if allegations are made against them questioning their competence.

Article 5(2) of the Health Professions Order 2001 provides (emphasis added):

“The Council shall from time to time ... establish the standards of proficiency *necessary* to be admitted to the different parts of the register being the standards it considers *necessary* for safe and effective practice under that part of the register”

In setting those standards the critical factor is that they must be *necessary* standards which, giving that adjective its ordinary meaning (as the courts would do), means “absolutely essential” or “indispensable”.

In drafting or revising any of those standards the Council needs to apply a simple test; if a person was refused registration on the basis of not meeting a particular standard, if challenged, would the Council be able to persuade a court that the standard was necessary? To take a simple example, the explanation that “the applicant has no knowledge of anatomy” is rather different to “he or she is not very good at using Excel spreadsheets”.

The consequence of this “necessary” test is that the standards of proficiency should not be expected to encompass or reflect:

- the full content of an approved professional educational programme; or
- the full range of knowledge and skills of a typical health professional.

It is important for the Council to recognise that there is nothing intrinsically wrong with that position, as the standards of proficiency are *threshold* standards – the bare minimum necessary for admission to the register – and it would be of concern if educational provision and professional performance only just met those standards rather than comfortably exceeding them. Indeed the dynamic tension this creates helps contribute to the continuing improvement in professional skills and knowledge skills and the raising of those threshold standards over time.

In short, the standards of proficiency are the minimum and not the optimum standards expected of a health professional.

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