

Formal Response to Draft National Standards for Counsellors and Psychotherapists (November 2024)

To: Standards Development Team,
Department of Health and Aged Care.

From: Philip Armstrong,
Chief Executive Officer,
Vocational Mental Health Practitioners Association of Australia (VMHPAA).

Date: 07 June 2025.

Subject: **Formal Feedback and Objection to Elements within the Draft National Standards for Counsellors and Psychotherapists.**

1. Introduction

The Vocational Mental Health Practitioners Association of Australia (VMHPAA) welcomes the opportunity to contribute to the consultation on the Draft National Standards for Counsellors and Psychotherapists (November 2024). We support the Department's overarching intent to develop consistent national standards that promote client safety, professional accountability, and the public good. However, we are compelled to formally object to key provisions within the draft that, if adopted, would marginalise an essential component of the Australian counselling workforce namely, vocationally qualified mental health practitioners.

2. Executive Summary

VMHPAA strongly supports national consistency in standards and the pursuit of client safety. However, the current draft:

- a. Excludes AQF Level 5 Diploma qualified professionals from private practice and supervision.
- b. Fails to acknowledge long standing safe practice among vocationally trained counsellors.
- c. Lacks legal justification for its exclusionary provisions, raising risks of unlawful restraint of trade and indirect discrimination.
- d. Omits stakeholder consultation with VMHPAA, despite representing a substantial portion of the workforce; and
- e. Conflicts with workforce realities, existing legislation, and evidence-based practice.
- f. We call for immediate redrafting of Focus Areas 1.3.1, 1.3.2, and 2.1.7 and direct consultation with VMHPAA prior to further progression.

3. Key Issues

- 3.1 Legal Considerations: Restriction of Trade The blanket exclusion of Diploma qualified (AQF Level 5) counsellors from private practice and supervisory roles, as stipulated in Focus Areas 1.3.1 and 1.3.2, lacks legislative mandate and raises significant legal concerns:
- a. *Unlawful restraint of trade*: There is no statutory authority under the Health Practitioner Regulation National Law or related legislation to prevent AQF Level 5 graduates from engaging in lawful practice; and
 - b. *Absence of Regulatory Impact Statement*: No evidence suggests a legal risk analysis or regulatory impact assessment was conducted.
- 3.2 Historical Safe Practice and No Evidence of Harm Diploma qualified counsellors have legally and competently practised for over two decades:
- a. Provided services across private practice, schools, NDIS, aged care, and veterans support.
 - b. Delivered thousands of hours of clinical supervision; and
 - c. No documented complaints or evidence of harm directly attributable to AQF Level 5 qualification alone.
- 3.3 No Clinical Evidence Supporting Restrictive Education Requirements A review of peer reviewed literature indicates:
- a. No conclusive evidence that higher academic qualifications produce safer or more effective outcomes.
 - b. Therapist client rapport and empathy are consistently stronger predictors of positive clinical outcomes than qualification level; and
 - c. Studies have found no correlation between academic level and basic counselling competency or client outcomes.
- 3.4 Inconsistency with Broader Mental Health Workforce Standards The draft standards impose unjustifiably higher thresholds than:
- a. Peer workers (often Cert IV qualified) who provide psychosocial support; and
 - b. Community mental health professionals (often AQF Level 4/5) managing complex clients independently. This double standard lacks justification and is arguably discriminatory.
- 3.5 Exclusion of Key Stakeholders from the Consultation Process Despite representing vocationally trained professionals across Australia:
- a. VMHPAA was not consulted; and
 - b. No evidence is provided of vocational training providers or VET sector representatives being involved.
- 3.6 Disproportionate Impact on Women and Mature Age Workers Departmental data confirms:

- a. 71% of practising counsellors are women; and
 - b. The majority are aged between 45-54 years. Exclusionary standards risk displacing thousands of qualified, experienced female professionals and undermining workforce diversity.
- 3.7 Australian Skills Quality Authority (ASQA) Recognition of VET Quality The Diploma of Counselling is regulated by ASQA, which mandates:
- a. High quality training and assessment.
 - b. Regular audits and sanctions against noncompliant RTOs; and
 - c. A nationally consistent standard for VET qualifications ensuring public safety.
- 3.8 Consultation Bias Evidence suggests unequal representation:
- a. PACFA has historically advocated against vocational qualification and only supports AQF level 7 and above qualifications was heavily involved, with monthly meetings with the Department's consulting firm.
 - b. VMHPAA was excluded, despite representing a large portion of vocationally trained professionals; and
 - c. There is no transparent reporting of consultation inclusivity.

4. Legal and Policy Analysis

The current draft raises concerns under several legal instruments and principles:

- a. *Health Practitioner Regulation National Law*: No statutory authority limits AQF Level 5 practice in the absence of registration.
- b. *Disability Discrimination Act 1992 (Cth)*: Disproportionate exclusion of neurodivergent or disabled professionals trained through vocational pathways may amount to indirect discrimination.
- c. *Fair Work Act 2009 (Cth)*: Potential for adverse employment impacts from arbitrarily imposed qualification thresholds; and
- d. *Australian Consumer Law*: Potential breach via anticompetitive restrictions on lawful business activity.

From a policy perspective, the draft contravenes principles of procedural fairness, transparency, and proportionality. A national standard must:

- a. Reflect the diversity of the workforce.
- b. Be informed by evidence, not status driven assumptions; and
- c. Ensure equitable access to professional recognition and employment.

5. Recommendations

VMHPAA respectfully submits the following:

- a. Amend Focus Areas 1.3.1, 1.3.2 and 2.1.7 to recognise the legitimate role of AQF Level 5 graduates in private practice and supervision.
- b. Commission a Regulatory Impact Statement (RIS) to assess the economic, social, and legal consequences of the proposed standards.

- c. Convene an urgent stakeholder consultation that includes VMHPAA and representatives from the vocational training and mental health support sectors.
- d. Acknowledge existing competencies and ethical practice among diploma qualified counsellors within revised standards.
- e. Delay the implementation of any restrictive provisions until such inclusive and evidence informed review is undertaken.

6. Conclusion

The VMHPAA reiterates its full support for national standards that protect the public and elevate professional excellence. However, the current draft risks:

- a. Disenfranchising competent practitioners.
- b. Undermining service access in already underserved communities.
- c. Violating core legal and ethical principles of fairness, non-discrimination, and stakeholder engagement.

We urge the Department to reconsider and revise the standards in partnership with the full breadth of the profession, including vocationally qualified professionals. We remain committed to supporting a collaborative process that ensures fair, inclusive, and robust standards for all Australians.

Thank you for your consideration.

Yours faithfully,

Philip Armstrong

Philip Armstrong

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References:

<https://www.jobsandskills.gov.au/data/occupation-and-industry-profiles/occupations/2721-counsellors>

ACA membership numbers - April 2025

<https://theaca.net.au/>

PACFA annual report - Membership Info

<https://pacfa.org.au/portal/For-Members/membership-fees-2025.aspx?WebsiteKey=663df354-bb4c-40db-9f44-9f1e672224ed>

No evidence of correlation between education level and client safety

https://www.counseling.org/docs/default-source/vistas/barriers-to-evidence-based-counseling-practices-a-counselor-educator-training-model.pdf?sfvrsn=c594d931_10

Therapist qualities as predictor of safety and improved clinical outcomes

<https://pmc.ncbi.nlm.nih.gov/articles/PMC10405669/>

Outcome measures to track distress and safety don't correlate with counsellor education

https://intranet.secure.griffith.edu.au/_data/assets/pdf_file/0021/34383/OBrien-and-Mooney-JANZSSA-article-Oct-2010.pdf

Therapeutic relationship is key predictor of outcomes

<https://research.library.kutztown.edu/cgi/viewcontent.cgi?article=1164&context=jcps>

Masters of Counselling students basic skills were not correlated with better outcomes

<https://stars.library.ucf.edu/cgi/viewcontent.cgi?article=4406&context=etd>

Supervision less effective in facilitating clinical outcomes than the therapist-client relationship or client personality / characteristics

<https://trace.tennessee.edu/cgi/viewcontent.cgi?article=1214&context=tsc>

Best predictor of outcomes is the therapist-client relationship: Meta Analyses

<https://pubmed.ncbi.nlm.nih.gov/10883561/> - 79 studies evaluated

<https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2011.00270/full> - relationship better than the modality being applied

<https://greenspacehealth.com/en-us/therapeutic-alliance/> - most important predictor of outcomes

<https://www.apa.org/monitor/2019/11/ce-corner-relationships> - relationship is best predictor of outcomes

https://www.pc.gov.au/_data/assets/pdf_file/0005/240899/sub337-mental-health.pdf - no significant difference in outcomes between psychs, sw's and counsellors

Perception of effectiveness influence by psychs being on medicare and counsellors not

<https://theactgroup.com.au/politics-of-healing/>

ASQA & VET

<https://www.asqa.gov.au/>

<https://www.asqa.gov.au/students/qualification-integrity-regulatory-action>

<https://www.asqa.gov.au/about-us/asqa-overview/working-together-better-regulation>

Standards and Regulations VET etc

<https://www.asqa.gov.au/about-us/asqa-overview/key-legislation/standards-rtos-2015>

Compliance ASQA

<https://www.asqa.gov.au/about-us/asqa-overview/working-together-better-regulation>

<https://www.asqa.gov.au/how-we-regulate/our-regulatory-practice>

PACFA and their position on Diploma qualifications

https://www.pacfa.org.au/common/Uploaded%20files/PCFA/Membership/2022/PACFA_TrainingStandards_2022_design_v2.pdf

<https://ccaa.net.au/wp-content/uploads/2022/02/PACFA-Training-Standards-2020-2.pdf>

National Standards - stakeholder consultation was open for four weeks only

<https://consultations.health.gov.au/mental-health-access-branch/get-involved-review-draft-national-standards-for-c/> (Nov 11 opened and closed on Dec 13 2024)

Response Bias

<https://pacfa.org.au/portal/portal/News-and-Advocacy/news/2024/Update-on-the-National-Standards-for-Counsellors-and-Psychotherapists.aspx>

<https://pacfa.org.au/portal/portal/News-and-Advocacy/news/2024/PACFA-advances-National-Standards-for-counsellors-and-psychotherapists.aspx>