Professional Standards legislation and supporting Learning Cultures

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Professional Standards legislation support strategies for professional development within professional associations was fully enacted throughout Australia in 2004. The legislation claims to facilitate the improvement of occupational standards. Learning for professionals has a duality of learning outcomes viz. community protection and risk minimisation based on competency/sufficiency learning; and career development requiring advanced level learning for both career specialisation and knowledge integration. Each outcome may involve accreditation through professional associations.

Professional associations and educators need to design programs for professionals using adult learning pedagogy to facilitate deep learning. Not all learning frameworks assist “Transfer of Learning” or the duality of learning outcomes. The paper explores how a professional association can develop a learning culture within the profession; provide a context where learning can be integrated with work; and support learners through Communities of Practice.

Keywords: Professional Standards legislation, professional development, work-integrated learning

Introduction

The introduction of Professional Standards legislation (PSL), following the agreement in August 2003 to introduce legislation in all states and territories, mandated professional development (PD) for professionals in Australia. Requirements for professional development to be undertaken by professionals are prescribed by professional associations under a self-regulation framework. Professional Standards legislation in Australia may change the focus of professional development within professions. To comply with the requirements of Professional Standards legislation, professional associations are required to develop monitoring systems which verify that professionals operating under PSL are not only professionally qualified but that they have been involved in ongoing PD (PSC, 2006a).

One aim of Professional Standards legislation is to protect the public from professional incompetence. Competency focused professional development standards have been perceived as a means of protecting the public through risk minimisation policies (Marden, 2003). The current emphasis of PD within professional associations appears to concentrate on developing and assessing a sufficiency standard of knowledge for professionals. In combination with PSL this translates to systems to ensure that professionals comply with the requirements of an approved scheme. Standards appear to be less concerned with the development of new or
deeper career knowledge through specialisation or the integration of knowledge (M. K. Smith, 2005; Standards Australia, 2007).

There is a danger that the emphasis placed within the act on compliance will not result in improved levels of knowledge and performance. Standards imply a one-size fits all approach (M. K. Smith, 2005). This paper documents part of an on-going study regarding the impact of Professional Standards legislation on professionals and asks: is a policy of minimum compliance to agreed standards adequate for PD for professionals and what is needed to ensure human capital is optimised, standards improved and consumers protected? Professional associations and the academics in these associations can play a role to ensure that professional standards are both maintained and improved.

**Background problem and approach**

Australia is the only country which has introduced Professional Standards legislation. PSL has the objective to **improve standards and protect consumers**. This has caused us to ask what is meant (or should be meant) by improvement of standards, what is the impact of PSL and how can standards be improved? The impact of PSL should be examined critically based on existing learning theories and learning philosophies. Professional Standards legislation contains no mention of learning theories or methodologies (PSC, 2007). It delegates professional development methodologies to individual professional associations. Courses accredited by professional associations give graduates eligibility for a professional level class of membership. Full membership may depend on graduates having sufficient practical experience and/or passing a professional entry program established by the professional association. University staff often play an important role in these professional entry programs and in the setting of standards between classes of membership. Professional entry programs introduce professionals to self-directed, lifelong learning and in some cases is young professionals’ first experience of practical applied learning. If maintenance and improvement of standards is an aim of credentialing then these programs should develop learning cultures which encourages continual growth of knowledge and professionals’ ability to apply that knowledge.

Professional associations should provide learning frameworks covering specification of learning objectives, content development, content delivery, mentoring, peer support, assessment and recognition.

It is a theme of our research that learning needs to be in context and that the philosophy of Work-Integrated Learning provides the means for effective transfer of learning. PD requirements vary from discipline to discipline in terms of quantity and quality of PD and of compliance monitoring. The paper builds on literature which is concerned with constructing knowledge particularly through Work-Integrated Learning. Much of this literature has focussed on either undergraduate programs or on non-professional workbased learning.

This paper reports policy positions in relation to professional standards and Professional Standards legislation published by the Professional Standards Association, Professions Australia and individual professional associations. From these statements we have examined the knowledge requirements needed by practicing professionals in general. We have also examined the underlying learning theories and frameworks which are available to, and used by, professional associations for professional development of their members to satisfy
government, consumer and professionals’ needs. We argue that this should not be driven just by risk minimisation strategies and compliance measurements.

This paper argues that a duality of learning cultures influencing PD is needed. Firstly consumer protection and risk minimisation, which recognises learning designed to obtain and maintain accreditation; and secondly career specialisation and/or integration of knowledge at an advanced level.

Learning for professionals and Professional Standards legislation

Professional development has three functions: risk minimisation; objective recognition of qualifications; and self-determined personal development. Risk minimisation and enhancement of security aims to reduce harm to individual’s well being; to organisations; and/or to society – government and the economy in general.

Professionals deal with knowledge domains which are complex and ill-structured. The problems professionals face can be conceptually intricate and require more than the retrieval from memory of intact pre-existing knowledge. Problems often vary from case to case, consequently the solution arrived at is non-repeatable in whole or in part. Problem solving involves going beyond information presented in a course to comprehension of the issues. Constructing meaning in different situations requires the use of knowledge developed through effective learning. Knowledge needed requires both domain knowledge and experience to solve each new situation (Brown & Duguid, 1991). Professionals need to build knowledge rather than commit information to mind (Spiro, Feltovich, & Jacobson, 1996).

In a learning situation mere knowledge and understanding of the text is insufficient; it must be combined with knowledge built through experience (Brown, Collins, & Duguid, 1989). Many PD programs are competency based training programs which often use multiple choice definitional styled questions. They are designed to enforce the concept of standard solutions to all problems. However, “very little of real working life is run on agreed common definitions” and the work of professionals involves approximations and most of practice is “highly interpreted, time and place contingent, and constantly shifting” (Lambe, 2002 n.p.).

In vocational learning, education systems have been designed mainly involving assessment of separate learning packages containing manageable problems which lend themselves to pre-specified solutions (Brown & Duguid, 1994) – a competency or sufficiency approach. We argue that the need to minimise risk has increased the emphasis on competency and as a result more PD activities have been reduced to assessing competency. This approach is not suitable for professionals wishing to be involved in deeper, or self-directed career, learning. In order to deal with problems which continually change and evolve professionals require knowledge derived from learning and experience (Spiro et al., 1996). PD programs designed for professionals should take into account that transfer of learning needs to be the key element of these programs. Melotte (1996) argues that knowledge should be seen as being explanatory, predictive and interpretive. Professionals will not reach this level of understanding and adaptability unless their understanding of theory constructs is sound and they are encouraged to transfer learning content to the workplace.

Professionals in practice need PD at an appropriate postgraduate level and arguably which is made relevant through drawing on the experience and/or the work environment of the professional. Brown and Duguid (1991), in developing the theories of Lave and Wenger
(1990, revised 1991) and Orr (1990), claim that separation of knowledge and practice is unsound and argue for the composite concept of "learning-in-working" to enable a fluid evolution of learning through practice.

Professional Standards legislation was first enacted in Australia in 1994 in New South Wales. The purpose was to enable self-regulation of the professions and other occupations to work better for the community. In August 2003 Insurance Ministers of all states and territories agreed to establish a system of nationally consistent Professional Standards Legislation (Marden, 2003). All jurisdictions have now passed Professional Standards legislation based on the NSW act and its subsequent amendments. At the time of writing Queensland and the ACT have yet to establish Professional Standards Councils. Each jurisdiction has (will have) a Professional Standards Council, with all Councils having common membership; administration for each is through the New South Wales Attorney General’s department (PSC, 2006a).

The objects of this Act are as follows:
(a) to enable the creation of schemes to limit the civil liability of professionals and others,
(b) to facilitate the improvement of occupational standards of professionals and others,
(c) to protect the consumers of the services provided by professionals and others,
(d) to constitute the Professional Standards Council to supervise the preparation and application of schemes and to assist in the improvement of occupational standards and protection of consumers (PSC, 2006b p. 3).

The Professional Standards Council provides recognition for professionals by issuing the Cover of Excellence® trademark for use by members of professional associations participating in the scheme.

The Centre for Applied Philosophy and Public Ethics (CAPPE, 2006) found that professionals perceived that the most significant benefit of registration under the scheme was that registration provided evidence that professionals have an (or have improved their) ethico-professional reputation. This benefit exceeded insurance capping as the primary incentive for registration. Nevertheless the Professional Standards Council noted a tendency for some associations to focus on limiting the civil liability of professionals [object (a) above] when proposing schemes to the Council. Limiting of civil liability on its own is not desirable as it acts to shift risk to consumers. The Council saw that its role was to ensure that schemes which improved standards and protected consumers were developed and approved (PSC, 2006a).

The Guidelines for occupational associations to prepare an application to the for the approval or renewal of a scheme (PSC, 2007) shows that their standards are egalitarian (self regulation by professional associations); based on minimising risk for the community and focusing on regulation and compliance. Learning methodologies are left to the discretion of individual professional associations.

Both the Professional Standards Council and Professions Australia (the peak body for professions in Australia) mandate that professionals undertake on-going PD. This requirement satisfies objects (b) and (c) above, of the Professional Standards act. The way schemes are implemented is influenced by the need for compliance under object (d) above. It is arguable that the burden of compliance may distract professional associations.
Professions Australia (2006) states that professional associations are responsible for the control of a profession through policies relating to admission to the profession, regulation of professional practice and consumer protection. Professional associations have a responsibility to ensure that the sufficiency level of knowledge held by members when admitted to the profession is updated and maintained.

Professional associations have ethical codes and codes of conduct which provide the framework and culture to ensure that risk is minimised within the constraints of the practice of the profession. Effective PD within professional associations should ensure that members are aware of these requirements. Increased public awareness of risk has heightened concerns of these issues. Professional Standards legislation is one response by governments and professions to this.

Objective recognition of qualifications by professional associations of individual’s knowledge and/or skills is possible through PD. Professionals retain their credentials for professional practice by maintaining a competency level. Professional societies should also oversight the development of knowledge of their members beyond a sufficiency level and provide appropriate recognition of this (Argy, 2006; Australian Physiotherapy Association, 2005; Phelan, 2002).

Professional development also enables self-determined personal development as individual professionals choose to undertake PD to improve their knowledge and skills either for continuing competency or personal and career development. Most professional associations prescribe a minimum compliance level in order to retain membership at a professional level. PD is necessary for professionals to keep up to date within their profession in areas of technical, legal, conceptual and/or social change. These activities generally are not related to qualifying for an award but may be necessary to retain professional accreditation through attendance at seminars, workshops, short courses and more recently through online learning activities. The choice of the process and the topics is generally left to the individual and may depend on the ability of the professional to access learning and training programs. The level of learning obtained is debateable and its effectiveness will be demonstrated by the ability of the learner to use the material taught.

Professionals may wish to develop their careers beyond the sufficiency level and to take responsibility for their career development by developing deeper knowledge in order to become either a specialist; or to develop integrating knowledge by using their domain knowledge in combination with other domains to develop their knowledge over a broader context. This self-actualisation professional development represents the area where professionals grow beyond a competence level and become leaders of their profession and organisations. Real growth in knowledge combined with the ability to apply that knowledge is vital to the future of the nation. Education needs to address this area.

It is not enough for educators to assume that “Transfer of Learning” occurs as a result of education and training. Whatever is learned will not necessarily be retained or remembered over time or used in appropriate situations (Doyle, 2002). Melotte (1996 n.p.) argues for “better linkages between planning research, education and training, competency standards, quality assurance and continuing professional development … Improving higher education and the professions requires a new interpretation of professional education and training and professional practice.”
The keys to transforming information into a thorough informed and reliable understanding of the subject material (knowledge) are “C words such as: comparison, consequences, connections and conversation” (Davenport & Prusak, 1998 p. 6). Comparison, consequences and connections require more than explicit knowledge. Reflection and the linking of work and learning are proven means for developing these traits in students (Calway & Murphy, 2007).

**Professional development learning framework**

Professional development for professionals may include formal and informal learning. Professional associations specify a body of knowledge and develop courses to deliver and assess the material for credentialing programs (often by distance learning) leading to admission to the professional association. Where this happens in Australia, Australian academics are generally involved in some way. In other cases e.g. Financial Planning and Project Management, course material content, delivery methods and assessment is developed overseas and there is no Australian component. Assessment for many programs is by multiple choice exams. We argue that this does not encourage either deep learning or lifelong learning which should be aims of these programs.

At a more advanced level formal programs (referred to as expansive learning) may be offered by professional associations to develop new specialist skills and knowledge or integrate knowledge across domains. Specialist programs are developed through specialist groups or colleges within professional associations e.g. Engineers Australia, College of Surgeons. The basic level knowledge of professionals is used as the foundation for new expertise. More than basic competency is expected. Students are required to demonstrate deep understanding of the subject matter as a prerequisite to practicing within that specialisation. Advanced credentialing is often the outcome of this type of program.

Integration of knowledge across domains is particularly important for professionals working in multi-disciplinary teams or who are moving into management roles. Traditionally generic MBA programs have been the vehicle for this type of professional development. More recently domain specific MBA programs have become popular. These programs integrate the domain specific knowledge of professionals with the needs and functions of other parts of the business or operation. Many professionals see this type of program as more relevant (and perhaps less threatening) than a generic MBA. Some professional associations e.g. ACS have established programs which are aimed at broadening the knowledge base of members and help them to operate in interdisciplinary situations.

Workshops, seminars, short courses etc. are less formal learning programs conducted by expert practitioners or academics. They are designed to expand the domain knowledge of the professional or to enable them to extend their ability to apply their knowledge, particularly in a business sense. In many cases, attendance at these activities is opportunistic in response to a market offering rather than as a result of career planning. These activities may be provided by commercial organisations, professional associations or universities. Quality varies and participants may look to the professional associations for credibility and integrity. The pedagogy associated with many programs is questionable as training “is thought of as the transmission of explicit, abstract knowledge from the head of someone who knows to the head of someone who does not, in surroundings that specifically exclude the complexities of practice and the communities of practitioners” (Brown & Duguid, 1991 p. 47).
In Just-in-time learning, a professional seeks out material to research an issue of current concern. The depth of learning necessary is at the discretion of individual professionals. The students’ ability to transfer knowledge to practical situations determines the success. Material needs to be easily available and accessible and appropriately detailed to cater for a variety of users. It is important that the material is filtered to ensure that it is accurate, reliable and kept up to date. Web based material is ideal for this. ACSLearn (ACS, 2004) is an example. The Knowledge Transfer and Exchange site of the Canadian Health Services Research Foundation is an exemplar of knowledge transfer between researchers and decision makers (CHSRF (Canadian Health Services Research Foundation), 2007).

**Integrating work with learning**

Much of the literature and emphasis of work based learning focuses on training and the development of competencies. Competency based training assesses a trainee’s ability to carry out defined tasks in environments where problems have been solved in the past with an emphasis on efficient and reliable performance. Where learning or training takes place in the workplace, there is a perception that educational institutions and industry structure the learning experiences in workplaces in a way that sustains existing practice in the workplace (Billett, 2001). Learning philosophies are needed which are directed at improving the occupational standards of professionals. Professionals should be leaders. Specialists are the leaders of a profession; professionals with integrative knowledge are the leaders of organisations and society. Learning should emphasise growth of knowledge for professionals.

Painter (2006) claims that PD activity unduly focuses on the development and assessment of competencies (acquisition of knowledge). Academics within professional associations should play a role in the development by those societies of learning programs and facilities to maintain the sufficiency level of knowledge of practitioners at a professional level, as new knowledge within a profession evolves over time. Educators in professional associations should also play a role in the development of advanced level professional knowledge.

Learning in context, where the learning can be related to practical situations, is well established as a means of achieving deeper learning (Brown et al., 1989). The case for Work-Integrated Learning as the appropriate learning philosophy for professionals has been addressed in an earlier work (Murphy & Calway, 2007). Work-Integrated Learning is a philosophy of learning which is not restricted to a single learning theory. It is consistent with the broad concepts of both action learning and active learning.

Action learning, involves a continuous process of purposed learning and reflection, initiated and driven by learner, to enable solutions to real problems (Knowles, 1975; Revans, 1991). Active learning is concerned with learning from doing. It can also include reflection as well as student course materials, case studies, group activities and constructed or applied activities related to the student’s environment. Learning, integrated with work, is a feasible learning model for professionals as they are engaged in work (Clark, 2000b; Meyers & Jones, 1993).

Work-Integrated Learning has been found to improve teamwork, capacity to learn, initiative, communication skills oral, adaptability and interpersonal skills (Young, 1997). These skills are enhanced despite the fact that Martin (1997) found that many academics had no understanding of the way students learn in the workplace. Educators involved in PD within professional associations can deepen understanding and wisdom of professionals through
appropriate learning models (Bellinger, 2004) which include developing an understanding of learning in the workplace (e.g. Andresen, Boud, & Cohen, 2000; Boud & Solomon, 2001; Brown et al., 1989; Calway & Murphy, 2007; Clark, 2000a; Dewey, 1938; Kolb, 1983; Lave & Wenger, 1991; D. Smith, 2006; M. K. Smith, 1996, 2001).

Professional associations as communities of practice

Professional associations are examples of communities of practice. “A Community of Practice (COP) is a special type of informal network that emerges from a desire to work more effectively or to understand work more deeply among members of a particular specialty or work group” (Sharp, 1997 n.p.). Professional associations are the guardians of professional standards and are responsible for the development of knowledge and practice within the profession. They provide forums by which professionals can grow within their profession. They are examples of informal communities who can sustain learning through sharing expertise, practices and war stories. It is feasible for them to become Communities of Discourse. Some of the problems of learning provided in workplaces such as insecurity, in-breeding, narrowness and exclusion may be overcome by professional associations providing and supporting a learning culture which enables both action learning and active learning.

Professional associations need to build learning frameworks which cover more than just content development and delivery mechanisms. They have the capabilities to provide necessary mentoring and peer support combining these with a culture which is supportive of deep learning to form the basis of professional development for more than just competency. Knowledge Management theory advocates the creation of communities of practice and the development of learning cultures. Trust, cooperation and friendship are key components of communities of practice. Where learning is seen to be valued then deep learning is more likely to occur. Knowledge Management proponents advocate encouraging innovation and enhancing intellectual levels to enhance capital performance (e.g. P. A. C. Smith & McLaughlin, 2004). Professional associations, as Communities of Practice, are able to make explicit, relevant tacit knowledge; model strategies for learners in authentic activity; support learners' attempts at doing the task as teachers and peers; empower the learners to continue independently (Brown et al., 1989); and facilitate face to face and electronic communication on specific topics.

Conclusion

Professional development has three functions: risk minimisation; objective recognition of qualifications; and self-determined personal development. Risk minimisation and enhancement of security aims to reduce harm to individual’s well being; to organisations; and/or to society – government and the economy in general.

The learning pedagogy, framework and culture of PD for professionals are primarily influenced by the need to protect consumers through policies which minimise risk. Professional Standards legislation has reinforced this emphasis and as more professions become registered under this legislation there is a real danger that advanced level career development may suffer as professional associations divert attention and resources to issues of compliance. Growth in the knowledge and capability of professionals is vital to the future of organisations and the economy. The duality of learning cultures influencing PD needs to be recognised and career development of professionals should become a key component of PD supported and promoted by professional associations.
Future work will examine the models and levels of learning provided for career development by professional associations and assess professional associations’ response to the Professional Standards legislation in Australia.

References


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