



## **Submission on Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill**

**6 October 2015**

**Submission to:** Health Committee  
Select Committee Services  
Parliament Buildings  
Wellington

**Submitted on behalf of the College of Nurses (Aotearoa) NZ Inc. by:**  
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## Summary

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The College of Nurses Aotearoa (NZ) Inc. ('the College') welcomes the opportunity to provide a submission on the Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill ('the Bill').

The College is a professional body of New Zealand registered nurses and Nurse Practitioners from all regions within New Zealand and specialties both within and outside of the District Health Board ('DHB') setting. It provides a voice for the nursing profession and professional commentary on issues that affect nurses, and also the health of the whole community, aiming for excellence in nursing practice and health care delivery which addresses disparities in health.

The College understands that the Bill is a consequential amendment giving effect to the Health Practitioners Competency Assurance Act 2003. The College has developed this submission in support of enabling nurses and Nurse Practitioners to practise within the full extent of their scope of practice within the Act. The changes proposed in the Bill will ensure that the Nurse Practitioner role especially is utilised to all aspects of health care in line with the competencies and training of the scope.

In summary, the College supports the amendments of seven acts identified in the Bill. The College also notes its support of the submission from the New Zealand Nurses Organisation (NZNO), Nurse Practitioners of New Zealand, and Te Ao Maramatanga (College of Mental Health Nurses). Our specific feedback is detailed further in our submission below.

## Submission

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### **Part 1 Amendments to Accident Compensation Act 2001**

The College supports the proposal to amend the clause 7(3)(b), 7(5) and 13(1)(b) from Medical Practitioner to lead Health Practitioner. This will be particularly important in some areas, especially rural and remote areas where there are limited Medical Practitioners and Nurse Practitioners and registered nurses are a vital component to overall health care delivery.

Nurse Practitioners especially are health professionals who take a lead role in managing patient care. This means that Nurse Practitioners working in Primary Health and Emergency settings are involved in completing ACC 45 and 18, time off work, ordering orthotics just as a Medical Practitioner would.

### **Part 2 Amendments to Burial and Cremation Act 1964**

At present, certification of death within the Burial and Cremation Act 1964 is restricted and is not enabling for Nurse Practitioners. The amendments proposed will mean changing from a doctor's certificate to a certificate of cause of death.

The College supports this change since it recognises the clinical lead role of Nurse Practitioners caring for patients during an illness and should therefore be the expected

Health Practitioner to provide a certificate of cause of death. This ability to certify death for cremation certificates is also important to fully enable Nurse Practitioners to care for the bereaved by eliminating painful delays in the post death period.

In some areas, such as rural, remote and aged residential care, delays in the certification of death may occur because of lack of access to a Medical Practitioner. This delay results in distress for the bereaved. In aged residential care and Hospice Care, Nurse Practitioners lead the care of residents, particularly in palliative care situations. When there is a death the Nurse Practitioner must rely on a GP colleague who may not have been involved in that persons care to complete the death and cremation certification. Amendments to the act enabling Nurse Practitioners to provide certificate of death and cremation would improve continuity of care and ensure that the deceased are certified in a timely manner.

The College supports the amendments to all the sections identified within the Burial and Cremation Act 1961 from doctors certificate to certificate of death and the amendments that allow the practitioner certifying death to be either a Medical or Nurse Practitioner.

We are aware of medical resistance to this change which we see as unfounded in any evidence. Research (Pirret et al, 2014) has confirmed the safe and comparable diagnostic ability of Nurse Practitioners and Medical Practitioners and we believe they are more than capable of safely assessing that death has occurred and why death has occurred.

### **Part 3 Amendments to Children's, Young Persons, and their Families Act 1989**

The College supports the amendments to the Children's, Young Person's and their Families Act 1989 to change the wording from Medical Practitioner to Health Practitioner.

We believe this will facilitate more timely care and reduce costs for the wide range of social and justice services involved, as requirements will vary according to circumstances. Such changes are critically important for providing timely and responsive services to children and young people.

As indicated, Nurse Practitioners are able to assess, diagnose and treat a broad range of conditions within their scope of practice and these include children and young persons with their families. It is important to recognise that Nurse Practitioners may be the lead practitioner in the care and management of patients and therefore without the amendments proposed in this Bill Nurse Practitioners are not able to work fully to the extent of their knowledge and skills.

### **Part 4 Amendments to Holidays Act 2003**

The College supports the proposal to amend Section 68 Proof of Sickness or Injury of the Holidays Act 2003 from Medical Practitioner to Health Practitioner, where currently the Act only specifies Medical Practitioner.

This has led to Medical Practitioners who have had no input into the care and management of patients being asked to provide proof of sickness or injury. This is unacceptable practice and this service should be able to be provided by the lead clinician. We support the change to Health Practitioner to allow for suitably qualified Health Practitioners to be able to provide

proof of sickness or injury. Nurse Practitioners have assumed full clinical responsibility of patients but have been unable to provide patients with proof of sickness or injury.

Rural Nurse Practitioners have provided “off work” certificates rather than Medical Certificates as a mechanism to enable quality care to patients since the Act restricts them from issuing medical certificates. In small communities the Nurse Practitioners are recognised as lead carers, sometimes the only Health Practitioner and business accepts off work certificates related to sickness or injury from them.

### **Part 5 Amendments to Land Transport Act 1998**

The College supports the proposed amendments to the Land Transport Act 1998 from Medical Practitioner to Health Practitioner, which in turn recognise the changing health care environment in New Zealand.

The current Land Transport Act states that only medical doctors and optometrists are able to certify persons fit or unfit to drive based on their physical or mental condition. The amendments change the wording from Medical Practitioner and Optometrist to Health Practitioner. This recognises that Nurse Practitioners and specialist gerontological RNs have the expert clinical knowledge and skills to provide this certification of patients. At present all driving licence issues are dealt with by Medical Practitioners and Optometrists even if they are not the lead clinician responsible for the patient who may complete the assessment but have another Health Practitioner sign off.

The College supports amending the wording in sections 60, 64, 72, 73, 74, 75, 76, 79, 99, 100, 100A and 209 from Medical Practitioner to Health Practitioner.

We are not comfortable with the proposed amended definition of medical officer as “a person acting in a hospital and who in the normal course of the person’s duties, takes blood specimens”. We suggest deleting both the existing and proposed definition in s2(1) and amending the relevant sections regarding the taking of blood samples to read “health practitioner or person under the direction of a health practitioner”.

Many Nurse Practitioners describe completing the task while a Medical Practitioner signs the form. This may cause delays particularly within the acute and rural contexts when Medical Practitioners are not immediately available or at a distance. It is important to stress that access to blood sampling is time critical and delays may affect the ability to prosecute or provide protection to the public.

### **Part 6 Amendments to Mental Health (Compulsory Assessment and Treatment) Act 1992**

The College has no specific comment on Part 6, however, supports the submission provided by Nurse Practitioners New Zealand and the NZNO in respect of Part 6. We make no specific comment as the majority of our members do not have particular expertise in mental health.

## **Part 7 Amendments to Misuse of Drugs Act 1975**

The College supports the amendments within the Misuse of Drugs Act 1975 and advises that amendments introduced since July 2014 have greatly improved Nurse Practitioners' ability to provide for the care of patients in a number of practice settings including Palliative care. However there remain some sections within this Act as well as others that continue to limit the ability of Nurse Practitioners to work to the full extent of their scope of practice which are highlighted in Part 8.

## **Part 8. Supplementary Considerations**

### **Amendments to Misuse of Drugs Act 1975**

The College endorses the submission by Nurse Practitioners from Drug and Alcohol Nurses Australasia (DANA).

Nurse Practitioners currently work in settings where they are lead carers for people with addictions. They complete assessments and advise on prescriptions that a Medical Practitioner (who may not have the same level of knowledge in that area of practice) will then sign. This is cumbersome, less safe and time consuming.

### **Medicine's Act 105 B1**

Nurse Practitioners are authorised prescribers and lead carers who provide clinical oversight to nurses within the registered nurse scope of practice. However, at present Nurse Practitioners are unable to supervise registered nurse Designated Prescribers under Clause D. In addition, the Standing Orders Regulation limits Nurse Practitioners from supervising and issuing standing orders that are within our area of practice.

This regulation can be problematic for Primary Health Care Nurse Practitioners where there is an emphasis by Ministry of Health for working in PHC groups. There may be no general practitioner on site and the Nurse Practitioner is often working with practice nurses. If Nurse Practitioners are unable to sign off standing orders then it can create delays in patient care for simple issues that can be managed by standing orders.

We acknowledge that Minister Coleman has announced changes to the Standing Orders Regulations that should happen with the appropriate amendments made outside of the regulatory review and we look forward to seeing the required amendment made to the Regulations in the near future.

### **Social Security Act**

While not currently being considered by the Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill there is a need for this act to be reviewed since it currently restricts the practice of Nurse Practitioners by enabling only Medical Practitioners to provide certification in relation to a number of clauses, as described below:

Section 39c – provides for certification of whether or not a child has a serious disability. This is currently limited to certification by a Medical Practitioner.

Section 40c – supported living payment: on grounds of sickness, injury, disability, or total blindness: medical examination. This applies to people who are applying for a supported living payment on the grounds of injury, sickness, disability, or total blindness. At present, this can only be determined by a medical practitioner or a psychologist in terms of determining whether the person is permanently and severely restricted in capacity for work or totally blind.

Section 40e – supported living payment: on ground of caring for patient requiring care: medical examination. This requires all applications for a supported living payment on the ground of care at home for a patient requiring care must have a certificate from a medical practitioner.

Section 88e – job seeker support: on ground of sickness, injury or disability: medical examination – an examination can only be conducted by a medical practitioner or psychologist to determine eligibility.

The College strongly encourages Select Committee to consider a review of this Act to bring it into alignment with the other amendments being proposed.

### **1977 Contraceptive Sterilisation and Abortion Act**

Notwithstanding the need for a complete overhaul of the discriminatory and cumbersome 1977 Contraceptive Sterilisation and Abortion Act, we strongly recommend a simple amendment to S32 (1) of the CSA Act is incorporated into the Bill, to improve operational efficiency.

Section 32 of the Act setting out the procedure for a woman seeking an abortion requires a referral to two certifying (medical) consultants from Medical Practitioner defined in this section as “the woman’s own doctor”.

This significantly obstructs services provided in the primary health sector where nurses have extensive engagement with the woman and undertake the necessary preparatory work, which then has to be handed over to a doctor to sign the referral to the certifying medical consultants. The time and attention of three doctors in this health care process is not warranted.

Consequently, delays in this time-critical treatment are inevitable and the process is duplicative and far from transparent. With nurses able to be fully accountable, delays can be prevented for referring the client. We recommend that S32(1) is amended by replacing the words “Medical Practitioner” with “Health Practitioner” to read:

*Every Health Practitioner (in this section referred to as the woman's own doctor) who is consulted by or in respect of a female who wishes to have an abortion shall, if requested to do so by or on behalf of that female, arrange for the case to be considered and dealt with in accordance with the succeeding provisions of this section and of section 33.*

This is consistent with the Bill’s purpose and amendments to other statutes.

## **General Comments**

Thank you for providing an opportunity to provide comment on the proposed amendments to the seven acts, which would allow nurses and Nurse Practitioners greater flexibility and ability to more effectively undertake their roles in providing patient care and also your consideration of the supplementary points.

The Health Practitioner Competency Assurance Act 2003 has set a foundation for future proofing New Zealand health workforce development and policy making. The Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill embeds the general term Health Practitioner into Legislation. If this bill is successful it will simplify and coordinate legislation to facilitate workforce innovation and efficiency.

In line with other nursing organisations we agree that an Omnibus Bill is an appropriate and efficient way of introducing standard adjustments to several statutes developed for health workforce models and health service delivery that are now outdated.

In line with NZNO we question the rationale behind Clause 2(2) providing for a two year delay in implementing the Bill i.e. *“to allow time for relevant responsible authorities to ensure that the scope of practice of their members allow them to carry out the new statutory functions”*. In fact, it is the legislative changes that have long been needed to allow HPs to carry out statutory functions in line with existing, well established, scopes of practice, not the other way around. This provision is unnecessary and will significantly prolong unnecessary reduced access to services for many New Zealanders.

The College of Nurses, Aotearoa (NZ) Inc would like to make an oral submission.