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Allison Sutherland
Ministry of Health
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Dear Allison

Re: Legislative Barriers to Workforce Innovation

Thank you for the opportunity to comment on legislative barriers for workforce innovation. The College of Nurses (Aotearoa) notes that discussion and consultation on the many and significant barriers that exist preventing some areas of the workforce from practising to their full potential has been protracted over a period of 5 years.

Consultation both internally within our organisation, and externally with other National Nursing Organisations has established our priorities for the legislative barriers we consider need to be addressed urgently. Our comments have been separated to differentiate between those barriers that affect nurse practitioners; and those that are an issue for registered nurses. We have also identified additional non-legislative barriers to workforce innovation and outlined these at the end of this letter.

Barriers for nurse practitioners

It is unfortunate that these barriers, both legislative and otherwise, persist in restricting the practice of nurse practitioners, who are expert clinicians in their

specific areas of practice, effectively impacting on client's access to services and health outcomes.

Many of these pieces of legislation are historical and we need to be moving towards models that embrace the positive contribution evidence demonstrates nurse practitioners can make in offering innovative models of care. These legislative barriers greatly hamper the ability of nurse practitioners to offer comprehensive care to their populations as intended.

These priorities are:

1. Inability for nurse practitioners to issue medical / fitness to work / death certificates under several different pieces of legislation
2. Reimbursement for procedures, and other issues, under the Injury Prevention, Rehabilitation and Compensation Act 2001 (administered by ACC).

Inability to issue medical / fitness to work certificates

A total of 15 pieces of legislation currently exist which prevent nurse practitioners from issuing fitness to work, medical or death certificates. Not all of these pieces of legislation present significant barriers for nurse practitioners and we have therefore identified in the table below legislation that is particularly relevant. The significance of the restriction of these functions for nurse practitioners is dependent on the nurse practitioners specific area of practice. All of these functions clearly fall within the competencies and scope of the nurse practitioner role and the inability for nurse practitioners to perform these functions are particularly significant for nurse practitioners in the primary health care, occupational health, mental health and disease management specific areas of practice.

Legislation	**Organisation administering**	**Issue**
Alcoholism and Drug Addiction Act 1966	Ministry of Health	Limits issuing of medical certificates to medical practitioners
Burial and Cremation Act 1964	Ministry of Health	Limits signing of death certificates to medical practitioners resulting in delays and distress to families
Children, Young Person's and their Families Act 1989	Ministry of Social Development	Medical examination of child limited to medical practitioner
Health and Safety in Employment Act 1992	Department of Labour	Limits issuing of 'fitness to work' medical certificates to medical practitioners
Holidays Act 2003	Department of Labour	Limits provision of sickness certificates to medical practitioners
Injury Prevention, Rehabilitation and Compensation Act	ACC	Specifies that all medical assessments to be undertaken by medical practitioners in relation to

Legislation	Organisation administering	Issue
2001		determining 'incapacity' an eligibility for compensation
Land Transport Act 1998	Ministry of Transport	Limits issuing of medical certificates to medical practitioner
Mental Health (Compulsory Assessment and Treatment) Act 1992	Ministry of Health	Multiple references to 'certificates' relating to findings of medical practitioner
Social Security Act 1964 (section 54B)	Work and Income New Zealand	This section of the Act outlines who can sign a medical certificate for applicants of the Sickness Benefit. Under the Act, this activity is restricted to: • Medical Practitioners • Dentists • Midwives.

Case study: Nurse Practitioner in Primary Health Care, inability to issue medical certificate:

As a Nurse Practitioner working in Primary Health Care with young people, I am finding significant barriers to my practice. At WAVES we have 4,000 young people from the ages of 10-25 years who access our health and support services. I am authorized to diagnose and manage many complex primary health care issues. I can order laboratory tests, other diagnostic tests, such as x-rays and scans, I can prescribe medications, refer into secondary medical services, yet I am unable to sign off someone onto a sickness benefit. Many of our young clients are sent to us by WINZ, as they cannot afford to see a GP. They often have alcohol or drug addictions or have depression or anxiety that is preventing them from seeking work. For this reason it is imperative that Nurse Practitioners are added to the list of professionals that can sign them onto a sickness benefit. We have a GP who does approximately 4-6 hours per week. If he is not available many of these young people have been turned down for a sickness benefit at WINZ as a Nurse Practitioner signature is not accepted. We currently have around 10-15 referrals from WINZ every week.

Barriers for nurse practitioners under the Injury Prevention, Rehabilitation and Compensation Act 2001

At present, the Injury Prevention, Rehabilitation and Compensation Act 2001 (IPRC Act) does not define nurse practitioners separately from registered nurses. "Nurses" are defined under both the treatment provider and registered health professional definitions. However, there are some functions under the Act that may only be performed by registered medical practitioners or registered specialists. These functions are:

1. section 37(1)(a) relates to defining the date on which a person is deemed to have suffered a personal injury caused by work-related gradual process, disease or infection
2. sections 93 and 94 and Schedule 2 Clause 27 set out the qualifications and experience required for medical assessors that undertake initial medical assessments and assessments of/for vocational independence. The medical assessor reports to ACC on these matters
3. section 102(2) requires that a doctor provides a medical assessment for the purposes of determining incapacity for employment
4. schedule 1, clauses 57 and 61 relate to assessing and reassessing lump sum compensation. These clauses require that a doctor must provide a medical certificate reporting on the assessment and reassessment of the stability of the claimant's condition.

Some of these restrictions imposed by the legislation are more significant than others. Differential diagnosis, for example, is fundamental to the nurse practitioner role, however is restricted to doctors under the IPRC Act. The inability for nurse practitioners to assess incapacity for employment in practice means that the client is required to be referred to a medical practitioner for assessment in order to determine incapacity for work. Alternatively, the nurse practitioner would be required to request assistance from a medical practitioner to sign the necessary paperwork. Both of these alternatives are unacceptable solutions for an autonomous practitioner responsible for his or her own practice. Unnecessary delays and complications for clients are also introduced who are not receiving the best possible outcomes as intended under the IPRC Act.

The IPRC Act provides for adding an occupational group or part of an occupational group to a treatment provider or registered health practitioner definition, by regulation. This mechanism could be used to separately define nurse practitioners from nurses.

<u>Reimbursement and funding for nurse practitioners by ACC</u>

Currently this is not at a level that is appropriate for the level of practice of a nurse practitioner which often involves in depth assessment and can be up to an hour in duration. At present, however nurse practitioners are reimbursed at the same rate as registered nurses at $15 per visit. General practitioners, however, are reimbursed at a rate between $32 and $38 per visit.

At a minimum, nurse practitioners should receive the same reimbursement as a GP in order to recognise the advanced level of nurse practitioner practice.

Barriers for registered nurses

<u>The delivery of vaccination services in a non-clinical setting – Medicines Regulations 1984 (s44A)</u>

At present, the Medicines Regulations 1984 (s44A) provides the legal processes by which non-medical health professionals can be authorised to vaccinate. Expanding the number of registered nurses who are authorised vaccinators under the current legislation is very difficult at present. This is particularly true at times of high demand for authorised vaccinators, during the flu season for example; and given that the range and number of vaccines on the National Immunisation Schedule has increased. The ability to complete the requirements of the authorisation process is not swift and presents a barrier to the delivery of vaccination programmes.

In addition, there is variation in the standards set by the Ministry of Health about what registered nurses need to do in order to become authorised around the country. There is no evidence to support that the current authorisation process is ensuring the competency of registered nurses. Further, employers are excluded from what is essentially a credentialing process. Providers have resorted to using standing orders as a way of getting around the onerous requirements of the regulations, however this is not the intention of standing orders and does not give assurances of safety.

The College considers that registered nurses with the appropriate skills and knowledge should be able to administer vaccinations as part of their role and the responsibility for ensuring that the skills and knowledge are acquired should rest with the registered nurse and the employer and not with the Ministry of Health.

Inability to issue medical certificates under the Health and Safety in Employment Act 1992

The ability to issue medical certificates under the legislation is currently restricted to medical practitioners. This presents a major barrier for registered nurses, particularly for registered nurses in primary health care settings during times of great demand. For example, a major issue during 2009 within the primary health care setting occurred during the flu pandemic. Having effectively provided highly skilled nurse telephone triage systems to ensure flu suffers were kept away from general / primary health care practices, they were then forced to come into the practices in order to see a doctor to obtain a medical certificate.

Additional barriers to workforce innovation

In addition to the legislative barriers we have outlined, there are significant barriers occurring in other systems and processes:

1. Under legislation, nurse practitioners are able to order Special Authority. However, HealthPAC systems do not recognise nurse practitioner's registration numbers in its computer systems and therefore nurse practitioners continue to be unable to order Special Authority
2. DHB computer systems do not recognise nurse practitioners as referring agent and there is a lack of reporting back from specialist outpatient clinics (OPD) to the nurse practitioner at the referrer. Nurse practitioners are unable

to order CT scans and ultrasounds for example as they are not recognised within systems as a referring provider

3. Sharing laboratory databases on-line – while it is possible for GPs to access laboratory databases offsite from the DHB, nurse practitioners are unable to do this
4. PHO structural barriers prevent the development of funding streams to enable nurse practitioners from the direct enrolment of patients. This limits the ability of the nurse practitioner to function as an autonomous practitioner and provide comprehensive primary health care services to their populations as is the intention of the role.

The College of Nurses (Aotearoa) looks forward to this work being progressed as a matter of urgency and to further dialogue with the Ministry to work towards resolving the additional barriers for nurse practitioners.

Yours sincerely

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