



New Zealand Nurses Organisation

Submission to the Nursing Council of New Zealand

On

Guidelines for Direction and Delegation (Draft)

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ABOUT NZNO

The New Zealand Nurses Organisation (NZNO) is the leading professional body of nurses and nursing union in Aotearoa New Zealand, representing over 46 000 nurses, midwives, students, kaimahi hauora and health workers on a range of employment-related and professional issues. Te Runanga o Aotearoa is the arm through which our Te Tiriti o Waitangi partnership is articulated.

NZNO provides leadership, research and support for professional excellence in nursing, negotiates collective employment agreements on behalf of its members and collaborates with government and other agencies throughout the health sector. Nurses are the largest group of health professionals comprising half the health workforce.

The NZNO vision is “Freed to care, Proud to nurse”. Our members enhance the health and wellbeing of all people of Aotearoa New Zealand and are united in their professional and industrial aspirations to achieve a safe, sustainable and accessible system of public health care for all New Zealanders.

EXECUTIVE SUMMARY

1. The New Zealand Nurses Organisation (NZNO) welcomes the opportunity to comment on the Nursing Council of New Zealand (NCNZ) draft ‘Guideline: Direction and Delegation’.
2. NZNO has consulted with our members and staff, in particular; NZNO Colleges and Sections, NZNO Regional Councils, Te Runanga o Aotearoa, professional nursing advisors, and policy and research advisors.
3. NZNO commends the NCNZ on the development of a timely document that attempts to address many of the issues associated with the direction and

delegation of nursing tasks to others; however we have a number of specific concerns that require addressing including:

- a. clarification of the responsibilities of the midwife in regard to direction and delegation of enrolled nurses (ENs);
 - b. an overemphasis on the role of the EN in acute care settings; and
 - c. an inadequate definition and restrictive criteria associated with the supervision of ENs.
4. NZNO **strongly recommend** that NCNZ revisit the content of the draft document to address the contradictions prior to further publication.

DISCUSSION

Direction and delegation by midwives

5. NZNO is concerned that the draft document does not provide sufficient information for its members (both nurses and midwives) regarding the direction and delegation of care by a midwife to an EN. There are discrepancies between the Midwifery Council's competency 4.6 and the foot note on page 8 of the draft document. In particular, the Midwifery council competency 4.6 that states the midwife *"directs, supervises, monitors and evaluates the obstetric nursing care provided by registered nurses, enrolled nurses, registered general nurses or registered comprehensive nurses"*¹ and the footnote on page 8 of the draft document that states: *"Note these responsibilities also apply to an enrolled nurse (or a registered nurse who may only practice in a maternity facility) working under the direction of a midwife"*. This statement requires immediate clarification to ensure that RNs, ENs and midwives are able to practice safely.

¹ Midwifery Council of New Zealand (2004). *Competencies for entry to the Register*. Retrieved 22 October 2010 from <http://www.midwiferycouncil.health.nz/midwifery-competence/>

6. According to the scope of practice for the EN, an EN is able to practice under the direction and delegation of a midwife but is unable to practice unless under the supervision of a RN. The discrepancy between competency 4.6 for midwives and the footnote further confuses the issue of who is able to supervise and who is able to direct and delegate care provided by an EN. Urgent clarification is required and NZNO recommends that the Nursing Council of New Zealand (NCNZ) requests that midwifery competency 4.6 is updated to reflect current terminology via dialogue with the Midwifery Council of NZ.
7. For the past four years Professional Nursing Advisor, NZNO, Charlotte Thompson has raised the issue of ambiguity between the midwifery and nursing direction and delegation competencies through formal channels to the NCNZ as a risk on behalf of NZNO members. The conflict in direction and delegation principles first came to her attention when reviewing the NZNO Guidelines for Nurses on the Administration of Medicines in 2006 – 2007 (these guidelines have a section outlining the responsibilities of the multidisciplinary team). NZNO has expressed its concerns directly to NCNZ staff and through the NZNO submission process when reviewing the NCNZ Direction and Delegation Guidelines (November 2007).
8. NZNO strongly recommends that a joint statement issued by both the Midwifery Council of NZ and NCNZ to clarify the direction and delegation statement.
9. Since the NZNOs previous submission on direction and delegation in 2007, NCNZ has released a statement in the section entitled “RNs and Midwives” in their newsletter entitled “News Update” (September 2008 edition)². This clarifies the collaborative working relationship between RNs and Midwives. However, it highlights that Midwifery competency 4.6 has still to be updated.

² Retrieved 20 October 2010 from <http://www.nursingcouncil.org.nz/download/92/september08.pdf>.

10. The issue of direction and delegation has again been raised by our NZNO midwife members, who have repeatedly voiced their concerns. As a result, the issue was raised by Charlotte Thompson and Geoff Annals at their meeting with NCNZ CEO Carolyn Reed in May 2010.
11. Whilst appreciating the challenges of attaining consistency across two regulatory authorities, it is not helpful to have the issue partially explained in a footnote on page 8 of the draft Direction and Delegation guideline. There is no transparent acknowledgement by either regulatory authority that this is a risk that needs to be managed in the future, even if it cannot be resolved immediately. This needs to be stated clearly in the body of the Direction and Delegation guideline, not in small print in a foot note.
12. In addition, NZNO recommends that NCNZ develops a position statement that clarifies the relationship between the midwife and EN as a matter of urgency. This position statement must be accessible on the NCNZ website as opposed to finding a statement in a 2008 newsletter that nurses and midwives may be unaware of.
13. NZNO is unable to see any reason why midwives should be unable to direct and supervise the care provided by ENs in midwifery settings. The midwife has to direct and supervise RNs in this setting anyway.

ENs in the acute care setting

14. NZNO is very concerned that there is a significant overstating of the 'acute settings' context associated with EN practice. There are currently over 850 ENs practicing in acute care settings³ and NZNO is concerned that the wording in this document could again spark off another round of employer-induced restrictions further limiting the abilities of the EN workforce to provide

³ Nursing Council of New Zealand. (2010). The New Zealand nursing workforce: A profile of nurse practitioners, registered nurses, nurse assistants and enrolled nurses 2010. Wellington: Nursing Council of New Zealand.

safe and effective care. Significant redundancies are occurring throughout the country as employers attempt to seek clarity over the role of the EN in acute care settings⁴. In these situations, the unregulated health care assistant (HCA) becomes the easier (and cheaper) option to employ with a consequent increase in the risk to public safety and to the RNs charged with direction and delegation. RNs, midwives, and other regulated health professionals can safely delegate and direct the care provided by ENs as the basic level of knowledge of the EN is clearly known. The UK experience indicates that removing the regulated second level nursing workforce has been singularly unsuccessful and unsafe, and moves are now underway to regulate the HCA workforce.

15. In particular, the last sentence in the section entitled 'working as part of a team with a registered nurse in acute care settings', page 8: *'In these situations the enrolled nurse may assist the registered nurse but may not be assigned the responsibility for the health consumer'*, contradicts the NCNZ scope of practice for ENs which states 'In acute settings enrolled nurses must work in a team with a registered nurse who is responsible for directing and delegating nursing interventions'. It is well known that many ENs competently manage a case load of patients in an acute care setting under the direction and delegation of an RN, and this statement in the direction and delegation document obscures the role of ENs in these settings
16. ENs are required to meet specific competencies to practice. RNs, midwives, and other regulated health professionals can safely delegate and direct the care provided by ENs as the basic level of knowledge of the EN is clearly known. This is not the case with, for example, HCAs who have variable levels of knowledge and experience and no standard educational or competence criteria to practice.

⁴ For example, at Wairau Hospital in Blenheim, 3 enrolled nurses have been made redundant or redeployed from the Maternity Unit as there is no registered nurse rostered on who can provide supervision. The loss of these enrolled nurses with many years of experience who will likely be replaced with HCAs because of poor clarity surrounding direction, delegation and supervision is disturbing.

17. Having removed the confusion around second level nursing which had seriously threatened the continued existence of this much needed role in the modern health care team, there is a real risk that the lack of clarity in the direction and delegation guideline will reintroduce it.
18. NZNO recommend the NCNZ remove the last two sentences of the section entitled '*Working as part of a team with a registered nurse in acute care settings*' and add a sentence that reflects the competencies of ENs to practice rather than the restrictions on EN practice.

Supervision

19. NZNO members are concerned that the definition and instructions for RNs around supervision are unrealistic, restrictive, overly instructive, and state the obvious. The examples given are the types of examples that should be part of a performance appraisal process not supervision. Urgent clarity is required.
20. While acknowledging that ENs must practice under the supervision of RNs as per the scope of practice for ENs, it is unclear from the definition given in the document if RNs are required to be with the EN at all times, or if supervision is a periodic occurrence (as with accepted definitions of clinical supervision such as those found in the NZNO position statement on professional and clinical supervision⁵). NZNO strongly recommend that NCNZ revise the criteria for supervision to ensure that supervision requirements are clearly indicated.
21. ENs have a clearly defined scope of practice and have met required standards of competence. Inconsistencies surrounding supervision of ENs in residential care settings where they are in a position to co-ordinate the care

⁵ New Zealand Nurses Organisation. (2008). *Professional and clinical supervision*. Wellington: New Zealand Nurses Organisation.

of a group of HCAs under periodic supervision of an RN yet are apparently unable to practice without continuous supervision by a RN in acute care settings is confusing and unfair. Continual supervision of ENs by RNs negates the skills of ENs and limits the ability of ENs to provide the safe and effective care they are taught.

Health Care Assistants

22. NZNO recommends that the section in the document regarding HCAs is streamlined. HCAs are not regulated under the HPCA Act 2003 however they are expected to work within other legislative requirements such as the Code of Health & Disability Services Consumers Rights (1996) and the Health and Disability Services Standards (2008). As HCAs are not regulated by the Nursing or Midwifery Councils of NZ, they cannot be investigated by these Councils if there is an adverse outcome or complaint. However, HCAs can be investigated by agencies such as the Health & Disability Commissioner. NZNO refers NCNZ to the NZNO position statements on HCAs in Aotearoa New Zealand where clear definitions of the role and responsibilities of HCAs can be found⁶.
23. NZNO recommends that NCNZ remove the word 'specialised' from the phrase 'specialised nursing knowledge', on page 10. It should also be noted that HCAs do not currently have a scope of practice, they have only a job description.

Direction and delegation by registered health practitioners

24. NZNO notes that the principles of direction and delegation of the enrolled nurse by a registered health practitioner outlined on page 9 are not principles, but rather are a list of directives that limit care. NZNO

⁶ New Zealand Nurses Organisation. (2010). *NZNO position statement on unregulated health care workers [draft]*. Wellington: New Zealand Nurses Organisation.
New Zealand Nurses Organisation. (2010). *NZNO position statement on health care assistants in general practice and accident and medical centres [draft]*. Wellington: New Zealand Nurses Organisation.

recommends that these 'principles' be rewritten based on the principles of safe staffing and healthy workplaces consistent with the Queensland Nursing Council⁷ principles from which it appears the original 'principles' have been taken. For example:

- the primary motivation for delegation of the nursing activity is to meet client health needs and to improve health outcomes (Queensland Nursing Council, 2005/8);
- the enrolled nurse practices within their defined scope of practice as per Nursing Council of New Zealand guidelines;
- the registered health practitioner has assessed the competence of the enrolled nurse to perform the activity (Queensland Nursing Council, 2005/8);
- appropriate staffing that meets patient/client care requirements is present in the setting in order that appropriate direction and delegation can occur (Safe Staffing/Healthy Workplaces Unit Governance Group, 2009)⁸;
- processes exist in the workplace for ensuring continuing education, assessment of competence, appropriate clinically-focused supervision, appropriate skill mix, and collaborative patient/client care (Safe Staffing/Healthy Workplaces Unit Governance Group, 2009; Queensland Nursing Council, 2005/8).

25. NZNO also wishes to refer NCNZ to our previous submission on direction and delegation in 2007 where a flowchart was included that provided a clear and comprehensive process for decision making on direction and delegation of ENs and HCAs by all health practitioners. NZNO recommends that this diagram, based on the diagram found in the Queensland Nursing Council

⁷ Queensland Nursing Council. (2005/8). *Scope of Practice Framework for Nurse and Midwives*. Queensland: Queensland Nursing Council.

⁸ Safe Staffing/Healthy Workplaces Unit Governance Group. (2009). *Safe staffing/healthy workplaces DHB sector analysis on progress*. Wellington: District Health Boards New Zealand, New Zealand Nurses Organisation and Ministry of Health.

document⁹ should be included in the final NCNZ direction and delegation document.

Regulation of students

26. NZNO wishes to highlight to NCNZ that as of 2011, all students of nursing in Australia will be regulated. A clear statement regarding the direction and delegation of students by RNs, ENs, NPs and other regulated health practitioners and the relationships that exist between the groups may be appropriate in light of this development.

Inconsistencies in terminology

27. NZNO wishes to note our concerns regarding the inconsistent use of terminology throughout this document, especially in regards to the use of the term 'unregulated health care worker', and in other instances the use of 'health care assistant'. The document must be very clear about who is being referred to in each section – is it RN, EN, HCA, or other health professionals? NZNO refer NCNZ to the NZNO document on unregulated health care workers for clarity¹⁰. A NZNO survey of HCAs indicated that HCA is their preferred title as it differentiates them from unpaid caregivers and acknowledges their role as helping others in the healthcare team¹¹.

General points

28. On page 3, the principles of direction and delegation refer solely to the RN who is providing direction and delegation. Unless the document is entitled 'Direction and Delegation for RNs' NZNO see no reason why the principles of

⁹ Queensland Nursing Council. (2005/8). *Scope of Practice Framework for Nurse and Midwives*. Queensland: Queensland Nursing Council.

¹⁰ New Zealand Nurses Organisation [NZNO]. (2010). *NZNO position statement on unregulated health care workers [draft]*. Wellington: NZNO.

¹¹ Walker, L. (2009). *NZNO aged care survey: An examination of the perceptions, tasks, responsibilities and training needs of caregivers in New Zealand's aged care facilities*. Wellington: New Zealand Nurses Organisation.

direction and delegation should not be expanded to include all health practitioners providing direction and delegation.

29. Also on page 3, NZNO recommend the addition of a principle that outlines how the RNs own level of knowledge/skill/experience will influence their ability to make decisions about direction and delegation. There are a number of points made throughout the document relating to this. Examples include:

- a. page 4 point 2(c) and the 5 rights of delegation;
- b. page 4 point 3;
- c. page 5 the process for delegation has RN ability as the first consideration;
- d. page 6, dot-point 5, the employers' responsibility and;
- e. page 7 circumstances influencing safe delegation

All of these make similar points and should be included as part of the principles.

30. On page 3, point 1 d, the following sentence should be added: 'the level of direction and delegation may be different for an EN on level 4 of a PDRP programme to an EN who is a new graduate.'

31. On page 3, under 'assessment and monitoring of the health status of the consumer', it should be noted in this paragraph that ENs have a role in contributing to the assessment of the health consumer and that RNs should collaborate with the EN in informing the assessment

32. On page 4, 'under evaluating and monitoring of care', it should be noted that ENs are also accountable for the care they provide.

33. Also on page 4, point a, add that 'in some situations, the EN is responsible for reporting situations where staffing levels and skill mix are unsafe'.

34. Page 6, under 'the responsibilities of the person carrying out the delegated activities', the document needs to be more specific about who 'the person' is. For example, HCAs are not accountable to NCNZ for the care they provide but ENs are.
35. On page 6 under 'the responsibilities of the employer', there is a need to add the principles of safe staffing and healthy workplaces¹² and note the change in title from the *Health and Disability Sector Standards* to the *Health and Disability Service Standards*.
36. On page 8 where the role of the EN in contributing to assessments is noted, NCNZ may wish to list some assessment tool examples.
37. On page 9, a further contradiction is noted. Where ENs are not able to delegate activities from a care plan to HCAs or other ENs, how then can they coordinate and prioritise workload if it is not from a care plan? Urgent clarity is required.
38. On page 10, under the heading 'situations where responsibility for direction and delegation is not clear' at the end of the first paragraph is the statement "*this guideline applies*". The intent of this is not clear and NZNO recommend rewording this sentence.
39. Again on page 10, under the heading 'situations where an employer has authority to delegate care', further clarity is required. While the statement that the nurse continues to carry responsibility to intervene if they feel the proposed delegation is inappropriate or unsafe, is good in theory, NZNO is concerned that there is a risk that the boundaries surrounding accountability and responsibility may become blurred in situations where an employer/employee relationship may exist – particularly where the employer

¹² Safe Staffing/Healthy Workplaces Unit Governance Group. (2009). *Safe staffing/healthy workplaces DHB sector analysis on progress*. Wellington: District Health Boards New Zealand, New Zealand Nurses Organisation and Ministry of Health.

is not a registered health professional. An example may be in the privatized aged care sector where decisions can be influenced by profit motives rather than clinical judgment.

40. On page 7, it would be worthwhile including some comment on the value of newly qualified nurses being recommended/expected/required to complete a NEt-P programme in order to be able to safely carry out direction and delegation.
41. In conclusion NZNO wishes to thank you for this opportunity to provide feedback on the NCNZ guideline on direction and delegation draft.

NZNO **recommends** that you:

- **agree** to request the update of midwifery competency 4.6 by the Midwifery Council of New Zealand;
- **agree** to issue a joint statement on direction and delegation of ENs with the Midwifery Council of New Zealand;
- **agree** to develop a position statement regarding direction and delegation of ENs by midwives that will be freely available on the NCNZ website;
- **note** our concern that the wording in the document may further confuse employers regarding the role of ENs and spark a further round of redundancies of ENs in acute care settings;
- **agree** to remove parts of the 'acute settings' statement in order to ensure the section reflects the competencies of ENs to practice rather than the limitations;
- **note** our concern that the definition and instructions for RNs around supervision are overly restrictive;
- **agree** to revise the criteria for supervision to ensure the supervision requirements are clear for all parties;

- **agree** to strengthen the section on HCAs to ensure clarity around roles and responsibilities of these health care workers in relation to RNs, ENs and NPs;
- **agree** to rewrite the principles for the delegation of care by regulated health care practitioners in line with the Safe Staffing/Healthy Workplaces literature;
- **note** NZNOs support for the writing of a clear statement regarding the direction and delegation of students by RNs, ENs, NPs and other regulated health practitioners;
- **note** our concern that the boundaries surrounding accountability and responsibility may become blurred in employer/employee situations.

NZNO would welcome the opportunity to discuss this further with NCNZ and would like to offer to meet with NCNZ prior to any further publication of the document in order to assist NCNZ in its completion of the work.

Nāku noa, nā

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