

NZNO – TPPA

Thank you for the opportunity to present an oral submission on behalf of the New Zealand Nurses Organisation.

NZNO is the leading professional nursing association and union for nurses in Aotearoa New Zealand. We represents over 47,000 nurses, midwives and health workers on professional and employment related matters. NZNO is affiliated to the International Council of Nurses and the New Zealand Council of Trade Unions.

NZNO embraces te Tiriti o Waitangi and contributes to the improvement of the health status and outcomes of all peoples of Aotearoa New Zealand.

My name is Grant Brookes. I am a Registered Nurse of 20 years' experience, and the President of NZNO. Joining us on the phone shortly will be Kerri Nuku, our Kaiwhakahaere and co-leader. Also with me today are Cee Payne, NZNO Industrial Services Manager, and Marilyn Head, Senior Policy Analyst, who are available to answer questions.

Kerri will explain how the TPPA relates to the key global health challenges of the 21st century, in particular with regard to Chapter 28 (Dispute Settlement) and Chapter 29 (Exceptions and General Provisions).

But first I wish to reinforce some key points from our written submission, from a nursing perspective, including some comments on Chapter 18 (Intellectual Property).

NZNO has been very clear throughout that we have no position, for or against, international trade or free trade agreements (FTAs). Our concern is health.

In New Zealand, as all nurses understand, healthcare is built on an ethical foundation of informed consent. This supports our commitment to patient-centred care.

Informed consent means that an individual in the healthcare system (or their parent or guardian) must be able to understand:

- that they have a choice
- why they are being offered the treatment, or procedure
- what is involved
- the probable benefits, risks, and side-effects – as well as the risks and benefits of not receiving the treatment or procedure.

From a nursing perspective, the TPPA is being imposed upon citizens without seeking their consent, or the consent of their elected representatives. We reject the avowals of Minister of Trade that it was the most extensively consulted agreement. Consultations which did occur were with selected participants, and mostly took the

form of diplomatic updates.

Equally, we have not been informed about the health benefits and risks. A recent review article in the *International Journal of Health Policy Management* shows that there are a number of potential health risks associated with the TPPA, and details a range of policy implications for health – in particular, intellectual property rights, the ISDS, technical barriers to trade, sanitary and phytosanitary measures and regulatory coherence provisions.

This is why New Zealand needs to conduct a health impact assessment.

From a nursing perspective, the TPPA is not patient- or person-centred. It is, as the NZCTU say in their submission, “structurally biased towards commercial interests”, which are normalised and privileged above other functions of government such as the protection of human rights and the environment, and the promotion of health.

We may have been denied the opportunity to speak with the Health Select Committee. But we do not accept that trade and investment agreements can, or should, be negotiated without oversight from the health sector. And we do not accept that these agreements should privilege commercial interests ahead of the interests of patients.

Our view is consistent with the International Council of Nurses’ Position Statement on International Trade Agreements: “ICN denounces policies, including trade agreements that have a negative impact on the quality of health care provided”. And it’s consistent with the Resolution of the 59th World Health Assembly on International Trade and Health, which “urges Member States (including New Zealand) to promote multi-stakeholder dialogue at the national level to consider the interplay between trade and health.”

As it stands with the TPPA, there are a range of provisions in the IP chapter, the net effect of which, as they apply to medicines, is to delay market entry of the cheaper generic drugs which PHARMAC relies on to provide affordable medicines from its limited and capped budget.

Any barrier to the production of, or delay in access to, generics inevitably means higher costs and that, in turn, restricts the medicines which PHARMAC can afford to fund. The ones who will be most affected are the most vulnerable.

The TPPA also introduces new provisions for a broad new class of drugs, biologics, which derive from protein-based living cells manufactured in a laboratory, rather than traditional chemical compounds manufactured in a laboratory. They include vaccines, blood products, insulin, and monoclonal antibodies such as Herceptin and Keytruda, and have opened up a new world of effective treatments for many diseases and autoimmune conditions such as cancer and arthritis. Biologics, including their generic counterpart, “biosimilars” are the fastest growing and most expensive group of medicines and they represent an increasing proportion of

PHARMAC's budget.

Article 18.52 provides for market exclusivity for biologic medicines by either eight years data protection OR five years plus additional measures to provide "effective market protection" and deliver "a comparable outcome in the market".

Currently MedSafe approval is taking an average of 18 months after the exclusive five year period. Is this "a comparable outcome in the market? Already the US pharmaceutical lobbyists are arguing that it is not.

The three year difference is critical since any delay in introducing competition will affect which medicines can be included in the budget. It will literally be a matter of life and death to some New Zealanders if market exclusivity is pushed out towards eight years.

In conclusion, NZNO believes that as part of this review, the Committee should:

- prioritise the government's ability to protect human and environmental health;
- initiate a full and independent Health Impact Assessment of the TPPA;
- clarify the mechanisms that will be used to ensure compliance with TPPA Chapter 18 Intellectual Property article concerning biologics to "provide effective market protection"; and
- initiate an open inquiry into the process by which international treaties are ratified, with a view to implementing parliamentary, rather than Cabinet, ratification.

Thank you.

Grant Brookes,

President, NZNO