

**SUBMISSION TO THE MINISTRY OF HEALTH REGARDING
RESTRICTED ACTIVITIES UNDER THE HEALTH PRACTITIONERS
COMPETENCE ASSURANCE ACT 2003**

The New Zealand Nurses Organisation (“NZNO”) thanks you for the opportunity to comment on this discussion document.

NZNO is a national body representing over 35,500 nurses and other health workers on a range of professional and employment related issues across the public, private and community sectors. The majority of our members are registered, enrolled and student nurses and midwives. NZNO also represents other health professionals such as radiographers and anaesthetic technicians. The remainder of our membership consists of unregulated health workers. As part of our structure we have 21 professional Colleges and Sections covering a range of nursing specialties.

The declaring of an activity to be a restricted activity has significant implications. It is a criminal offence for non-regulated people, and health practitioners without the relevant scope of practice, to carry out such activities (section 9 of the Health Practitioners Competence Assurance Act 2003 (“HPCA Act”). Those who contravene that section are subject to summary conviction and a fine of up to \$30,000.

In our submission it is therefore essential that items in the restricted activities list are carefully defined and have clear application. We are concerned that some of the items in the proposed list do not appear to meet that test.

We comment on some of the proposed list of restricted activities below.

Invasive Procedures

Whilst there may be fairly wide understanding of what the phrase “invasive procedures” means, in our submission there is still some room for disagreement or debate about what may be included. We are not aware of the term being defined elsewhere in legislation in New Zealand.

We consider that carrying out (some) invasive procedures would come within nurses' scope of practice. However, the restricted activity list does not specifically link any group of health practitioners to each activity. We would be most concerned invasive procedure did not come within the nurses' scope, as many, probably most, nurses carry out some such procedures at present.

We are happy to provide examples of the types of procedures which nurses are involved in, if that would assist.

We are aware that unregulated health workers at present perform a number of tasks which may contravene this provision. These include the following tasks which are at least arguably invasive procedures:

- (a) insertion of pessaries;
- (b) insertion of suppositories and enemas;
- (c) taking of blood via finger prick tests;
- (d) taking of blood for laboratory testing;
- (e) administering injections (mainly sub-dermal);
- (f) dressing of wounds;
- (g) insertion of catheters; and
- (h) removal of sutures, surgical drains, urinary catheters and intravenous cannulae.

These practices occur in a number of settings, including aged care facilities. We are aware of at least one public hospital where staff who are not required to be regulated carry out some of the above tasks.

We accept that many invasive procedures would meet the criteria in section 9(3) HPCA Act of risking serious or permanent harm, but question whether all such activities would. We have concerns about some of the activities which unregulated health workers are currently required to carry out. We support only those with suitable education and experience carrying out activities which risk serious or permanent harm to patients.

We are however concerned that little consideration appears to have been given to the reality of who will carry out these procedures if they are unable to be carried out by unregulated health workers. A few currently unregulated workers may become regulated on or shortly after the coming into force of the remainder of the HPCA Act. However, most of the above list of tasks are being carried out by those who there is no current proposal to regulate.

We are also aware of patients carrying out some of these procedures on themselves, and of family members being asked by the health team to carry the procedures out on an unwell family member who is being cared for at home. This includes for example the giving of injections, and the insertion of urinary catheters. On the face of the restricted activities list there is no exception for patients themselves, or family members carrying out such activities. However,

NZNO does not believe that family members should be involved in some of these procedures.

Mental Illness

We are concerned about this category, both in terms of which groups of health practitioners will be able to carry out the activity and in terms of unregulated health care workers.

In terms of nurses who will be registered under the HPCA Act, we believe that nurses should be able to carry out this category of restricted activity.

We are not certain whether the phrase “formal diagnosis” is sufficiently clear. For example, would some of the work done by duly authorised officers come within that description? We are also aware that the Nurse Practitioner model developed by Nursing Council allows Nurse Practitioners (who may have mental health as their specific area of practice) to perform differential diagnosis, prescribe (if endorsed) and administer therapies. One of the currently recognised Nurse Practitioners has a mental health specialty.

Other nurses working in the mental health field are involved in the providing of treatment to patients, and we want to ensure that establishing this restricted activity does not prevent that.

As regards unregulated health workers, we are concerned about what the “treatment” of patients with major mental illnesses may cover and consider that it needs clarification.

Currently unregulated mental health workers (such as psychiatric assistants) provide care to patients with a “major mental illness”.

Such people are not likely to be involved in the formal diagnosis of such patients’ illnesses, but are involved in the treatment of such patients. They would not usually be seen as determining the treatment but would rather work under treatment planned by a regulated health practitioner. We submit that in terms of dealing with the issue of unregulated health workers, the use of a phrase such as “prescribing treatment”, would be more appropriate for the restricted activities list.

12 August 2004

New Zealand Nurses Organisation Inc