



New Zealand Nurses Organisation

Submission to Government Administration Committee

on the

Law Reform (Epidemic Preparedness) Bill

6 June 2006

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1. EXECUTIVE SUMMARY

1.1. The New Zealand Nurses Organisation (NZNO) is in general agreement with the intent of the Law Reform (Epidemic Preparedness) Bill. However, we are concerned about the consequences of the proposed amendments on nurses and health care workers. In particular NZNO:

- **supports** the need for the Prime Minister through the Director-General of Health, to declare an epidemic,
- **understands** the need to relax statutory requirements to facilitate disease management and impose duties, however notes that the health and safety of health professionals (and all New Zealanders) is paramount and therefore a new clause should be inserted to read “nothing in this Act will override the Health and Safety in Employment Act”,
- **does not** believe that the bill adequately achieves its purpose, in particular attention is needed to areas such as surveillance, and adequate workforce and resources,
- **considers** it practical that a nurse may be empowered to give a certificate relating to the cause of the person’s death (if no-one else is available to do so), however as part of the Pandemic Preparedness Plans of District Health Boards, Primary Health Care, and Private Sector, nurses will need appropriate and adequate training, education and guidelines to meet this new requirement, funded by the government, and
- **is opposed** to forcing staff to take annual leave if there is an epidemic notice in place. In our view, employers should have a plan in place for an epidemic, including a process for engaging with and communicating with staff work and leave expectations.

1.2. This paper presents the concerns of the New Zealand Nurses Organisation.

2. RECOMMENDATIONS

2.1. The New Zealand Nurses Organisation recommends that the Government Administration Committee:

- **note** that NZNO is an affiliate and supports the submission of the New Zealand Council of Trade Unions,
- **note** that NZNO would like to make an oral submission,
- **agree** to include a new clause “that nothing in this Act will override the Health and Safety in Employment Act”, given that health professionals and in fact all workers will need to be kept safe during an epidemic notice period, and if they are required to work with people sick or in quarantine, the employer is responsible for ensuring adequate personal protective equipment, workplace hygiene and patient care resources are in place,
- **agree** to ask officials to do more work in ensuring adequate provisions have been made within legislation or operational policies for adequately resourced surveillance, adequately trained and qualified health professionals, particularly doctors and nurses, and adequate resources are in the health sector to support the required workforce (doctors, nurses, police) and provide patient and community care,
- **agree** to ensure that along with legislative changes to empower nurses to sign death certificates, that adequate and funded training is also provided,
- **note** that NZNO is opposed to forcing staff to take annual leave during an epidemic notice period. In our view employers should have a plan in place for an epidemic including a process for engaging with staff and communicating work and leave expectations, and

- **note** that NZNO is disappointed that the legislation does not go far enough in protecting the risks of an epidemic to the key workforce, in particular frontline nurses.

3. ABOUT THE NEW ZEALAND NURSES ORGANISATION

- 3.1. The New Zealand Nurses Organisation (NZNO) is a Te Tiriti o Waitangi based organisation which represents 39,000 health workers on a range of employment related and professional issues across the public, private and community sectors. The majority of our members are registered, enrolled and student nurses, and midwives.
- 3.2. NZNO has consulted its members in the preparation of this submission in particular staff (Management, Professional Nursing Advisors, Policy Analysts, Industrial Advisors) and members (Primary Health Care Nurses, Board Members and other health care workers).
- 3.3. In the event of an epidemic, NZNO is mindful that health professionals, particularly registered nurses, enrolled nurses, nurse assistants and caregivers are more likely than any other profession to come into contact with diseases during an epidemic, and as was the case during the 1918 influenza epidemic, die as a result. During the 1918 epidemic 21 doctors and nurses per 1000 died (Patterson, 2005).
- 3.4. NZNO is therefore concerned that relaxing statutory requirements during an epidemic may expose health professionals to even greater risks. This is unacceptable.
- 3.5. The health, safety and wellbeing of a critical workforce, that will save lives during an epidemic, must be protected. NZNO is aware of the hygiene information, availability of personal protective equipment, and pandemic planning occurring throughout New Zealand and in the health sector.

- 3.6. However NZNO recommends that to ensure the safety of health professionals and all core workers during an epidemic, a new clause be added to the bill as follows:

“nothing in this act will override the provisions in the Health and Safety in Employment Act”.

4. ACHIEVING THE PURPOSE OF THE BILL

- 4.1. The purpose of the bill is to give government agencies the legal power to: prevent the outbreak of epidemics in New Zealand; respond to epidemics in New Zealand; and respond to certain possible consequences of epidemics in NZ and overseas.
- 4.2. NZNO does not believe that the bill and amendments to associated legislation will achieve the above purpose. In our view three key issues need to be taken into account during an epidemic. These are surveillance, workforce, and adequate resources, in particular infection control and patient care equipment.
- 4.3. Surveillance is the backbone of public health, providing essential data to understand the epidemic and inform the public. Surveillance strategies include rapid diagnosis, screening, reporting, case contact investigations, and monitoring trends (Gostin, 2006). It is also important that health care workers are also part of surveillance, in particular, those that have “contact” with “carriers”.
- 4.4. The New Zealand public health infrastructure (as with many across the world) is deficient in laboratories, workforce and data systems. What measures have been put in place to adequately resource and personnel laboratories to test for “contagious diseases” including influenza A (H5N1)? Is influenza A (H5N1) a reportable disease in New Zealand? If not, this bill should make it so.
- 4.5. The health workforce is already in a crisis. There are significant shortages of Registered Nurses due to recruitment and retention issues. In November 2005, the Department of Labour report

Registered Nurse: Occupational Skill Shortage Assessment, noted that results from the 2004 Survey of Employers who have recently advertised indicate that employers have difficulty filling vacancies for registered nurses in New Zealand. Only 63% of vacancies were filled within eight to ten weeks of advertising and there was an average of only 1.1 suitable applicants for each vacancy. However, there does not appear to be a shortfall in the number of trained nurses in New Zealand. Rather, the Department of Labour believes there is a shortage in the number of registered nurses who are prepared to take up work under current pay and employment conditions. This occupation is thus described as having recruitment and retention difficulties rather than having a genuine skill shortage.

- 4.6. Even though the NZNO achieved an historic settlement for nurses employed by the District Health Boards, this accounts for 58% of all active registered nurses and midwives. Pay parity for primary health, and private sector nurses has not been achieved. Acerbated by an ageing population (the percentage of nurses aged 40 years or more rose from 46% to 61% between 1999 and 2001) and competition for New Zealand nurses in other countries (such as the United States, Canada, the United Kingdom and Australia), supply issues are likely to continue in New Zealand (Department of Labour, 2005). What measures has the government put in place to ensure that New Zealand has sufficient workforce resources to respond during an epidemic?
- 4.7. Given the workforce shortage, the consequences of health workers getting infected will affect mortality rates during an epidemic. Within this context, strict infection control, adequate personal protective equipment for staff and patient care equipment is also critical. The SARS-associated coronavirus spread efficiently in hospitals that did not adopt strict infection control. Disinfection, hand hygiene, personal protective equipment, and aerosol-generating procedures should be standard hospital practices (Gostin, 2006). It is vital that the government ensure that hospital infection control is consistent, that

health care workers are trained and that critical shortages in infection control and patient care equipment are addressed.

- 4.8. Lack of adequate resources and measures will affect health care workers, and their ability to remain safe in performing their duties as health professionals.

5. EXTENDING NURSES PRACTICE TO SIGN DEATH CERTIFICATES

- 5.1. Clause 6 enables operational changes to be put in place to adequately respond to an epidemic. For example, the notice may state that Registered Nurses may give death certificates. This will require a proposed new section of the Births, Deaths, and Marriages Registration Act 1995.
- 5.2. NZNO recognizes that Registered Nurses will be the main professional workforce during an epidemic in New Zealand. It is also important however to be mindful of the differing models of care likely to occur during an epidemic. These may include diagnosis and treatment in a hospital, general practice clinic, community based assessment centre, or most likely in people's homes. Given these varying situations and locations, nurses need the flexibility to act professionally, according to the circumstances and availability of a doctor.
- 5.3. In our view the proposed amendments, Clause 6, and Part 2, clauses 10-15 may not adequately cover the varying models of care.
- 5.4. Regardless the proposed amendments are significant in terms of the role of nurses while under a notice of an epidemic in New Zealand, and the situations in which they can issue a death certificate. NZNO therefore proposes that all Registered Nurses be given adequate and full training and education. Guidelines will need to be developed to enable nurses to adequately meet their legislative requirements. NZNO would be happy to assist with the drafting of such guidelines. This training and education should be included in all Pandemic Plans (District Health Boards, Private Sector, NGOs, Primary Health Care)

and the Ministry of Health should take a leadership approach and fund the nationwide training.

6. CHANGES TO THE HOLIDAYS ACT

- 6.1. The New Zealand Nurses Organisation is concerned that the bill enables employers to force employees to take annual leave while an epidemic notice is in effect. NZNO supports the concerns of the New Zealand Council of Trade Unions and supports the suggestion that this provision only be invoked when a business has had to close because of the health and safety impacts of an epidemic on the workforce or on the immediate community.
- 6.2. In our view the legislation should provide clarity in terms of the responsibilities of employers and employees to plan for an epidemic and have measures in place to negotiate business continuity during an epidemic notice period. This would include discussions at workplaces about pay and conditions.

7. AGED CARE SECTOR NEEDS ATTENTION

- 7.1. NZNO is particularly concerned about its members in the aged care sector. NZNO Aged Care sector members are vulnerable workers with poor pay and conditions. There are also a small number of Registered Nurses in the sector. However the majority of the aged care workforce is unregulated. Careful planning and adequate access to resources will be paramount during an epidemic. Given that the elderly are generally at risk of influenza epidemics and likely to also suffer from other illnesses and complications, NZNO considers it important and necessary that the government pay particular attention to this sector.

8. IMPLICATIONS FOR FRONTLINE NURSES

- 8.1. NZNO is also concerned about its members working in the frontline. These include primary care, public health, district nurses, practice nurses, emergency nurses, midwives, critical care nurses, plunket

nurses, prison nurses, mental health nurses, aged care and infection control nurses.

- 8.2. In our view there is no adequate legislative framework in place to protect these workers, who will be at risk during an epidemic notice period. What provisions are in place to protect their health and safety. Should these frontline nurses be redeployed into for example community assessment clinics, or locations outside of their usual place of employment, how will pay continuity be managed.
- 8.3. As mentioned previously there will be a range of models of care during an epidemic. These may include diagnosis and treatment in a hospital, general practice clinic, community based assessment centre, or most likely in people's homes. Given these varying situations and locations, nurses need clear provisions to ensure that they can care for patients and the wider community and know that their health and safety is also protected.
- 8.4. NZNO is disappointed that the legislation does not take into account the needs, opportunities and risks to the key workforce, in particular frontline nurses, during an epidemic notice period.

9. DEFINITION OF QUARANTINE

- 9.1. NZNO believes that the legislation should define quarantine. Quarantine in today's context should not be based on the previous examples and must protect fundamental human rights. In the past sick and exposed persons were often placed together in large facilities and given limited medical care. In the previous century this was often applied in an arbitrary and discriminatory way, targeting lower socioeconomic classes and racial minorities.
- 9.2. In today's context, quarantine should involve separating exposed people (contacts) who are not sick from symptomatic patients (carriers). The exposed patients would be monitored for a minimum time (incubation period) and provided medical care at the first sign of illness. This may be applied to individuals, families and communities.

- 9.3. NZNO notes that quarantine is referred to in Ministry of Health Guidance documentation and in the legislation. It is discussed in the Bill, and more detail provided in the Health Act 1956, Part 6 Regulations. Current reference to quarantine is focused on when it is appropriate to quarantine. A definition of quarantine is required in this legislation to make it clear to health professionals and the general public, where quarantine will occur and how the carriers and contacts will be kept separate, monitored and treated.
- 9.4. Isolation of infected persons, quarantine of exposed persons, and quarantine of a geographic area (cordon sanitaire) are complex and legally/ethically controversial public health powers. While quarantine is referred to in the Bill with more detail in the Health Act 1956, Part 6 Regulations, NZNO believes that legal authority is given without clear and acceptable criteria to safeguard the rights of individuals who are quarantined.
- 9.5. Does the legislation adequately provide for due process, where individuals who are subjected to quarantine have a hearing (with or without their presence) to clarify the terms of the quarantine and whether they will be able to work remotely, make provisions for children, have access to food, shelter, clothing and if required medical attention?
- 9.6. Perimeter quarantines would provide even more requirement for clarify within the bill. Potential large-scale quarantines may be possible during an epidemic, what clarification is given to ensure safe and hygienic locations, medical and nursing care, necessities of life and communications?
- 9.7. Isolation and quarantine must be based on fair assessment of risk, effectiveness of the quarantine measure and access by individuals and communities to medical and nursing care. NZNO believes that these parameters need to be addressed and included in this bill and associated legislation. A clause could be added, that “any action by a

Medical Officer or health professional to instigate a quarantine, whether at the boarder, or of an individual or community within New Zealand, must follow due process and be based on a medical assessment of risk, agreed location and process of quarantine, include adequate access to the necessities of life and medical and nursing treatment and care”.

10. CONCLUSION

10.1. The New Zealand Nurses Organisation considers that there are some key issues missing from the bill that require urgent attention. These include:

- the need to ensure that health professionals and all workers exposed to sick people during an epidemic notice period are protected. This would be met with an overarching new clauses “that nothing in this Act will override the Health and Safety in Employment Act”,
- ensuring adequate provisions and resourcing of surveillance,
- ensuring adequately trained and qualified health professionals, particularly nurses,
- ensuring that powers given to nurses (e.g. signing death certificates) is accompanied with funded training, education and guidelines,
- supporting employers and employees to plan for an epidemic and develop their own processes for business continuity and work and leave expectations and provisions,
- taking care of frontline nurses, the critical workforce during an epidemic.

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References

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