



# **New Zealand Nurses Organisation**

**Submission**  
**to the Health Select Committee**  
**on the**

## **Public Health Bill**

**March 2008**

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## **Executive Summary**

New Zealand Nurses Organisation (NZNO) welcomes this opportunity to contribute to the Public Health Bill. NZNO is in general agreement with the intent of the Bill but makes comments on specific aspects of the Bill.

In particular NZNO:

1. NZNO has consulted its members in the preparation of this submission in particular NZNO staff (Management, Professional Nursing Advisors, Policy Analysts) and NZNO members (Colleges and Sections, Te Runanaga O Aotearoa.) Several of these are specifically affiliated to public health nursing, primary health care and community nursing.
2. Our members comprise of the largest group who daily deal directly with public health issues or the result of public health care. This spans from those nurses who are involved in emergency management and screening at border control, public health nursing in schools, preschools, homes and the wider community through to management of non-communicable disease in community organizations and health care centres.
3. The Public Health Bill is closely aligned to the NZNO social policy position, mission and values.
4. NZNO supports the updating of the fragmented and very outdated Legislation for public health.
5. NZNO considers that the all risks approach that is used in this Bill allows for comprehensive management of emerging threats to public health.
6. NZNO is prepared if requested to meet with the Health Select Committee to discuss the contents of this paper.

## Recommendations

The New Zealand Nurses Organisation recommends that the Health Select Committee note that NZNO:

- **considers** that the Bill needs to include the commitment to Māori health inequalities and develop strategies to mitigate these.
- **supports** the move to require private hospital information as this will provide national health information, not just public information.
- **would support** a national immunisation register to enhance follow up of immunisation of children and provide more accurate immunisation data.
- **wishes** the Select Committee to note the Privacy Commissioner's recommendation that there should be a duty to warn health providers within the Health Act of a serious or imminent threat from a patient.
- **supports** the duty to provide health information for the communication of information for diagnostic and other purposes whether by an individual or a representative. However NZNO equally supports the circumstances in clause 24(2) where a person may refuse to disclose health information.
- **agrees** that there is a duty of care on health providers to report matters that constitute a public health risk but seeks this to be extended beyond medical practitioners to include nurse practitioners.
- **seeks** the following provisions to be extended beyond medical practitioners to include nurse practitioners; this applies to Clauses 32, 41, 42, 140.147, 151, and 152.
- **congratulates** the action of government to set a legislative framework for non-communicable disease.
- **recommends** that mental health be included in clause 79.
- **stresses** that 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 equipment are addressed.

- **is disappointed** that the Bill does not take into account the risks to the key workforce, in particular frontline nurses during an epidemic. The Health and Safety in the Workplace Act should override the provisions in this Bill.
- **is concerned** about the treatment of immigrants with infectious diseases.
- **considers** that the process of declaring a health emergency in *the Gazette* would be too slow to be effective.
- **agrees** with requiring persons to report or submit for medical examination.
- **agrees** with the description quarantine used in clause 267 as it includes a review process and safeguards the rights of individuals isolated or subject to quarantine.
- **considers** that any priority for the allocation of medicines must be through due process and be consulted on prior to the development of the policies.
- **considers** that there is a need for a national designation criterion for the examination of children with appropriately skilled/trained persons to train, authorise and monitor designated persons.
- **strongly recommends** that the Select Committee review clause 328 and amend subclause (3) to read ...‘designated officer may -  
(a) examine test or screen the child’.
- **is concerned** that clause 329 could be used to enforce immunisations on unwilling families perhaps in the case of a major ‘outbreak’.
- **supports** the provisions to control our borders and protect the safety of New Zealanders.
- **supports** the ability of Government to make binding orders to protect public safety, under clause 374, for example with smoking, but is concerned that there is no obligation for consultation prior to making these regulations.

## **Achieving the purpose of the Bill**

***NZNO has restricted its comments to the clauses in this Bill that are applicable to nursing, nursing practice and the health of the public.***

## **Part 1: Preliminary provisions, roles and responsibilities**

NZNO notes that in the purpose of the Act is to improve, promote, and protect public health in order to help attain optimal and equitable health outcomes for Māori and other population groups.

Other than in the purpose statement, there is minimal Māori inclusion in this Bill and it does not take into consideration the unique health needs, risks or strategies that appropriate to the Māori population.

There is no requirement for consultation and involvement with Māori and no acknowledgement of the Māori models of health or service delivery that make a significant difference to Māori. There is also no reference to traditional Māori health practices and rongoā.

The Treaty of Waitangi is respected as the founding document of New Zealand. NZNO is committed to acknowledging its Māori membership and the unique contribution of Māori nurses and health care workers to improving health outcomes especially in relation to health inequalities.

NZNO considers that the Bill needs to include the commitment to Māori health inequalities and develop strategies to mitigate these.

## **Part 2: Health information, notification, reporting and cervical screening**

### **Clause 22**

It is noted that the duty to provide health information applies to private hospitals (not just District Health Boards) under the Bill.

NZNO supports the move to require private hospital information as this will provide national health information, not just public sector health information.

NZNO supports this clause as there has been an issue with Public Health nurses not being able to have access to a child's health records on enrolment in a school. This has led to difficulties managing the child's health issues while at school when the Public Health nurse could have advised if they had been aware of the health issue.

NZNO would support a national immunisation register to enhance follow up of immunisation of children and provide more accurate immunisation data.

NZNO wishes the Select Committee to note that the Privacy Commissioner in his comments dated 4 December 2000 about the death of Carol Ann Shaw, a care giver who died as a result of a stabbing by a patient, was, that there should be a duty to warn health providers within the Health Act of a serious or imminent threat.<sup>1</sup>

#### **Clause 24**

NZNO supports the duty to provide health information for the communication of information for diagnostic and other purposes (clause 24(f)) whether by an individual or a representative. Individual health care is expedited and more efficient with the ease and timely access to appropriate health information.

NZNO equally supports the circumstances in clause 24(2) where a person may refuse to disclose health information.

#### **Clause 25**

Anonymous health information is a useful quality improvement tool for health providers to reflect, reorganise and improve public health care.

#### **Clause 31**

NZNO agrees that there is a duty of care on health providers to report matters that constitute a public health risk but seeks this to be extended beyond medical practitioners to include nurse practitioners having already been approved by Nursing Council NZ to diagnose and treat conditions.

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<sup>1</sup> Report on Carol Ann Shaw Coroners Court Inquest December 2000.

### **Clause 32**

NZNO seeks this to be extended beyond medical practitioners to include nurse practitioners.

### **Clause 41**

NZNO seeks this to be extended beyond medical practitioners to include nurse practitioners.

### **Clause 42**

NZNO seeks this to be extended beyond medical practitioners to include nurse practitioners.

## **Subpart 4 National Cervical Screening Programme**

NZNO wholeheartedly supports the continuation of the National Cervical Screening Programme. The objectives of the programme are beneficial for women and families in New Zealand and this has been enabled by the training of nurses as non-medical smear takers which has improved the uptake of numbers having regular cervical screening. However, NZNO is displeased that the Cervical Smear Taker Training Grant for nurses to complete their formal theoretical and practical training has been discontinued and no decision made about whether this will be reinstated. We believe this has serious implications for a quality public health service for the national cervical screening programme.

### **Clause 67**

NZNO supports the functions of evaluators and disclosure of information by health providers to evaluators. We believe it is necessary for these appointed people to have access to health information for the purpose of quality control.

## **Part 3: Non communicable diseases**

NZNO congratulates the action of government to set a legislative framework for non-communicable disease. New Zealand has an epidemic with more than 1000 people dying each year from obesity related problems which is more than the road toll<sup>2</sup>. This legislation will play a significant role in reducing and preventing obesity which is a major risk factor in cancer, heart disease and diabetes. Non communicable especially obesity and type 2 diabetes are significant issues for Māori health.

Unconventional ways of providing care for Māori who have a high burden of chronic diseases needs consideration. Simmons and Voyle<sup>3</sup> (2003) stated that the case of Māori who are a high risk population for chronic care conditions, conventional approaches are insufficient and that increased consideration needs to be given to how the settings in which health education and services are offered may influence diabetes prevention and earlier diagnosis.

Obesity management includes many strategies including prevention, environmental control at public health policy level and environments which support and reinforce health promoting messages, individual weight control and management of co-existing illnesses.

A key factor in this legislation is that methods to tackle obesity are not directly addressed and this section carries no real power of enforcement. It is suggested that regulation making powers for non communicable diseases in the Bill be made. This would enable the health sector to provide effective control and accountability to the public and develop sound strategies for improving health.

### **Clause 79**

Appears to define health in physical terms, but needs to include mental health, as we know that mental health is a one of the primary determinants of physical health, and vis a vis. NZNO recommends that mental health be included in clause 79.

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<sup>2</sup> Ministry of Health 2003 Healthy Eating, Healthy Action

<sup>3</sup> Simmons and Voyle (2003) Hard to Reach High Risk Populations. Piloting a Health Promotion and Diabetes Disease Prevention Programme on an Urban Marae in New Zealand.



## **Clause 80**

Non communicable diseases now pose a greater risk to public health than infectious diseases. The principles in this clause change the focus from infectious disease management to addressing the huge impact of the burden of chronic disease that this country faces, with the increase in obesity and the associated diseases such as heart disease, cancer and diabetes.

## **Part 4: Management of conditions posing health risks**

NZNO recognises that nurses will be the main professional workforce during an epidemic in New Zealand. Given the workforce shortage, the consequences of health workers getting infected will affect morbidity and mortality rates during an epidemic. In our view there is no adequate legislation in place to protect these workers, who will be a risk in an epidemic.

Strict infection control, adequate personal protective equipment for staff is critical. NZNO stresses that 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 equipment for nurses and patients is addressed.

NZNO is disappointed that the Bill does not take into account the risks to the key workforce, in particular frontline nurses during an epidemic. The Health and Safety in the Workplace Act should override the provisions in this Bill.

## **Clause 94**

NZNO approves the extension of directions that can be given to individuals who pose a health risk. The inclusion of measures which are less restrictive but still protecting public health enables individuals to continue to function within safe parameters and lessen the mental health effects of those concerned.

## **Clause 95 Directions that may be given to manage health risk posed by condition to which this Part applies**

NZNO is concerned about the treatment of immigrants with infectious diseases. Currently only New Zealand citizens should be treated free and pregnant immigrant women from Africa with aids should not be treated free to stop the baby getting aids. Most of these babies however are treated on delivery to protect the baby. The latest Immigration Bill proposes that being born in New Zealand should not automatically impart New Zealand citizenship so theoretically the babies should not be treated. This is inhumane and nonsensical in terms of preventing the spread of an infectious disease.

## **Clause 140 Meaning of relevant officer**

For the purpose of contract tracing a nurse practitioner (NP) should be added to the list of the relevant officer (currently the medical officer of health or the medical practitioner.) A nurse practitioner is able to competently carry out all the functions of contact tracing as given in Clause 139. This is supported by current practice whereby contact tracing is delegated to registered nurses (without NP status), by the medical officer of health (as enabled in Clause 147).

## **Clause 151 Medical practitioner may disclose certain matters to close associates**

NZNO supports the intent of this clause as close associates in some circumstances could be affected by the person with a communicable disease, however NZNO notes that it is limited to a medical officer and proposes that a nurse practitioner could also undertake this responsibility.

## **Clause 152**

The Ministry of Health documents “Evolving models of primary health care nursing practice 2005”<sup>4</sup>, and “Nurse practitioners in New Zealand 2002”<sup>5</sup> have already provided the governments commitment to implement nurse practitioners in public health care, sexual health, and youth health services. Nurse practitioners must be included in the identification of practitioners disclosing information to the Medical Officer of Health.

## **Part 7: Emergencies**

### **Part 7: Border health protection - subpart 2**

This section links up various agencies and the need to declare a health emergency.

### **Clause 259 Minister may declare an emergency**

NZNO considers that the process of declaring a health emergency in *the Gazette* would be too slow to be effective.

NZNO seeks clarification as to how this section links to section 11 of the Health Emergency Preparedness Act 2006 where the Director General of Health advises the Minister of Health on the prospective modification of statutory requirements and restrictions to facilitate and management of serious outbreaks of disease.

NZNO supports the provisions to control our borders and protect the safety of New Zealanders.

### **Clause 266 (f)**

NZNO agrees with requiring persons to report or submit for medical examination as it is vital to identification and control of the spread of infectious disease and for contact tracing.

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<sup>4</sup> Evolving Models of Primary Health Care Nursing Practice. 2005

<sup>5</sup> Nurse Practitioners in New Zealand, 2002

## **Clause 267 Safeguards for person isolated or subject to quarantine under. Section 266(1)(g)**

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 appropriate treatment at the first sign of illness. This may be applied to individuals, families and communities.

The legislation adequately provides for due process, but where individuals who are subjected to quarantine issues, the terms of the quarantine and should clarify whether they will be able to work remotely, make provisions for children, have access to food, shelter, clothing and if required medical treatment, need to be considered.

NZNO is concerned about its members working in the frontline. These include primary care, public health, district nurse, practice nurses, emergency nurses, midwives, critical care nurses, Plunket nurses, prison nurses, mental health nurses, aged care and infection control nurses. Taking care of frontline nurses, the critical workforce during an epidemic is vital if care is to be provided to people affected by the epidemic. Health professionals may be subjected to quarantine as they are frequently a contact for an infectious disease. Issues related to managing the commitments and responsibilities of health workers, such as child care and elder care need to be taken into consideration.

NZNO agrees with the description quarantine used in clause 267 as it includes a review process and safeguards the rights of individuals isolated or subject to quarantine.

## **Clause 278 Priority of medicines**

It is noted that the Director-General of Health can devise policies determining priorities with which the supplies that are under the crown are dispensed under emergency powers. NZNO considers that any priority for the allocation of medicines must be through due process and be consulted on prior to the development of the policies.

## **Clause 279 Penalties for not complying**

Health professionals need explicit education to raise awareness of the consequences of contravening this section. Under a health emergency the health workforce will be in high demand and under enormous pressure. Failure to comply with this clause and potential fine of imprisonment will be a disincentive but could also remove critical health workers for the workforce at a time when they are most needed and will add further pressure to the already stretched workforce.

## **Part 8: Miscellaneous**

### **Clause 328 Examination of children**

On its own this clause does not reflect the complexity of Public Health issues or challenges that nurses may encounter in education settings. Therefore decisions are often made using more than one Act, for example; the Privacy Act 1993, Contraception, Sterilization and Abortion Act 1977, the Tuberculosis Act 1948, the Education Act 1964, and the Children, Young Persons, and Their Families Act 1989. The interaction between the Public Health Bill and the other associated legislation will require education to the health and education sectors.

Persons under 16 years, under the provisions of the Contraception, Sterilization, and Abortion Amendment Act 1977, a designated health professional may provide a service to a consenting young person less than 16 years without parental consent. For example Public Health nurses are contracted to provide youth health services in school settings where confidentiality is strongly upheld and valued by students. Often in rurally isolated communities this is the only youth health service available.

NZNO is concerned that this clause prevents a designated officer examining a person under 16 years without the consent of a parent or guardian. In subsection (3) only allows the designated officer to:

- (a) advise the parent or guardian and the school or centre accordingly; and
- (b) refer the child to an appropriately qualified health professional for further investigation.

This section is unclear as commonly the designated officer will be a registered nurse and therefore a health professional in their own right. It is unclear if this means that a designated officer who is a registered nurse must refer to another health professional or if they can undertake an examination of the child. If the designated officer is not a health professional the clause does not allow the designated officer to examine the child to verify that the child has a health condition. This examination could be as simple as examining the child's head for lice or school sores and does not need to be referred to a qualified health professional for further investigation.

The Well Child Strategy, 'New Entrant Check' is an example of an examination that is undertaken by a Public Health nurse. Almost all of the children in the group will provide parent or guardian consent, however it is the small minority possibly only 1% for whom consent is not provided who are the most likely to be vulnerable and at risk children. If these children are not checked it is a lost opportunity and possible that health issues may be missed until later in life or they may have an infectious disease and infect the other children.

If Clause 328 means that the designated officer must refer to another health professional, NZNO needs to draw to the attention of the Select Committee that this clause significantly restricts the practice of Public Health nurses and would compromise the health of a significant number of children in New Zealand. Early detection and intervention of health issues is the key to the public health strategy. This clause will prevent children who have a health issue being examined to identify the health issue by a designated officer. It could create a barrier to the health professional developing holistic, therapeutic relationships with the child and family/whanau.

NZNO strongly recommends that the Select Committee review this clause and add to subclause (3) 'designated officer may -

- (a) examine, test or screen the child'.
- (b) ...

NZNO considers that there is a need for a national designation criterion for the examination of children with appropriately skilled/trained persons to train, authorise and monitor designated persons.

### **Clause 329**

NZNO are concerned that this clause could be used to enforce immunisations on unwilling families perhaps in the case of a major 'outbreak'. There needs to be extreme caution exercised and consideration given to the rights of the individual.

### **Clause 361**

This clause acknowledges good faith and reasonable care decisions, often made in complex situations.

### **Clause 374**

This clause allows the Governor-General to make regulations, by Order in Council. These provisions are very broad to respond to unforeseen risks; however NZNO notes that 374(x) allows the Government to issue binding regulations to reduce risk factors for non communicable diseases.

NZNO supports the ability of Government to make binding orders to protect public safety, for example with smoking, but is concerned that there is no obligation for consultation prior to making these regulations.

## **ABOUT THE NEW ZEALAND NURSES ORGANISATION**

The New Zealand Nurses Organisation (NZNO) represents over 41,000 nurses, midwives students and health care workers and is the largest organisation of health workers in New Zealand. NZNO represents nurses' concerns and views to positively influence health policy and improve health outcomes of all New Zealanders. A fundamental philosophy of NZNO is that improved professional, social and economic working conditions for nurses are inextricably linked to the delivery of quality health services and health outcomes.

NZNO has 22 specialist professional nursing groups. These groups - NZNO Colleges and Sections - are focused on improving quality standards of nursing and health care in specialist nursing areas, through professional self regulation processes. In responding to this review, NZNO has consulted with colleges and sections and in particular with: the

NZNO College of Practice Nurses, the National Division of Infection Control Nurses, Nurses for Children and Young People of Aotearoa and the NZNO Public Health Nurses Section.

The Treaty of Waitangi is respected as the founding document of New Zealand. NZNO strives to fulfil the principles of the Treaty of Waitangi and work in a spirit of partnership. Te Runanga Ō Aotearoa NZNO represents the interests of over 2000 Māori members. NZNO is committed to acknowledging its Māori membership and the unique contribution of Māori nurses and health care workers to improving health outcomes especially in relation to health inequalities.

Thank you again for the opportunity to comment. We look forward to continued participation in this Bill.

NZNO would like to make an oral submission to the Health Select Committee.

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## References

Ministry of Health, 2005 Evolving Models of Primary Health Care Nursing Practice. Wellington: Ministry of Health.

Ministry of Health, 2003 Healthy Eating, Healthy Action Oranga Kai, Oranga Pumau Wellington: Ministry of Health.

Ministry of Health, 2002, Nurse Practitioner in New Zealand, Wellington: Ministry of Health.

Report on Carol Ann Shaw Coroners Court Inquest December 2000. *Comments of the Privacy Commissioner* Retrieved February 2008 from [www.privacy.org.nz/report-on-carol-ann-shaw-coroner-s-court-inquest/](http://www.privacy.org.nz/report-on-carol-ann-shaw-coroner-s-court-inquest/)

Simmons, D; Voyle, JA; (2003) Reaching Hard to Reach, High Risk Populations: Piloting a Health Promotion and Diabetes Disease Prevention Programme on an Urban Marae in New Zealand, *Health Promotion International*; 18(1); 41-50.