

Regulated Health Professionals Working in Unregulated Roles, 2025

The purpose of this document is to provide information for Registered Nurses (RNs) Enrolled Nurses (ENs), Nurse Practitioners (NPs) and midwives who choose to work in a non-regulated healthcare role. Kaiāwhina is the over-arching term to describe non-regulated roles in the health and disability sector. Non-regulated roles include, but may not be limited to, practice assistants, Emergency Medical Technicians (EMTs), first aiders, health care assistants (HCAs). This publication fits with the NZNO Maranga Mai strategy for building member power – supporting members professionally and industrially.

Overview

The New Zealand Nurses Organisation/Te Tōpūtanga Tapuhi Kaitiaki o Aotearoa (NZNO), as a bicultural partner to Te Tiriti o Waitangi, acts to ensure the obligations of active protection are upheld. These obligations are honoured through supportive ways that are culturally specific to enhancing and empowering individual and collective identity. NZNO is an organisation that seeks to improve the health status of all people in Aotearoa New Zealand, through enduring participation in health and social policy development. We share the intent of the Ministry of Health's definition of equity which equally applies to NZNO work across professional, industrial and member activities. The standards of cultural safety are upheld through adopting culturally appropriate approaches that recognise Māori as tāngata whenua, and acknowledging the diversity of all cultural needs to promote positive equitable outcomes.

Background

NZNO is aware of situations where regulated health professionals are being employed or volunteering in unregulated roles. Working in an unregulated role is not illegal and NZNO acknowledges this sometimes occurs due to the lack of opportunities for employment in a nursing or midwifery role or for new graduates and/or internationally qualified nurses who are waiting for New Zealand nursing registration.

NZNO encourages nurses, NPs and midwives to seek employment as part of the regulated workforce where possible.

Working in a kaiāwhina role may create role confusion as it is challenging to disengage from professional knowledge, skills, clinical decision-making and judgement (e.g. when performing a client assessment). Therefore, the nurse, NP or midwife, who works in an unregulated role may find themselves in a vulnerable position having to adhere to the expectations of the unregulated role.

It is important to be aware of your professional accountability and of the potential professional risk involved in working in unregulated roles.

Accountability

If a nurse, NP or midwife is employed to work as an unregulated health care worker they are obliged to only undertake the duties outlined in the relevant job description. However, because of their professional registration, they would still remain accountable for their practice within the unregulated role. This means RNs, ENs and NPs are bound by the Nursing Council of New Zealand (NCNZ) Standards of Competence (NCNZ 2017,2024, 2025) and NCNZ Code of Conduct (2012). The Code of Conduct for Nurses (NCNZ, 2012, p.4) states that nurses "...are personally accountable for actions and omissions in their practice and must be able to justify their decisions".

Note: The NCNZ is reviewing the NP scope of practice and updating the Code of Conduct in 2025/2026.

Midwives are bound by Midwifery Council of New Zealand (MCNZ) competencies for midwives (MCNZ, 2024) and the Code of Midwifery Professional Conduct (MCNZ, 2021). The Code of Professional Midwifery Conduct (MCNZ, 2021, p.4) states "Midwives are accountable for their practice and for their conduct. They are accountable to the woman, the profession and to the community".

The Health Practitioners Competence Assurance (HPCA) Act (2003) applies to all registered health care professionals. The NZNO Code of Ethics and NZNO Standards of Professional Practice publications also provide guidance on standards of behaviour for expected nurses and midwives. A healthcare professional's fitness to practice may be called into question if they are found to have breached those standards of practice and codes of conduct.

Note: Legislation related to health care professionals in New Zealand is currently under review. Please refer to the appropriate legislation for clarification of any issues - [Health Practitioners Competence Assurance Act 2003 No 48 \(as at 15 June 2023\), Public Act Contents – New Zealand Legislation](#).

There may be occasions in an emergency situation where patient safety is at stake, and an RN, EN, NP or midwife working in an unregulated role could be required to work beyond the parameters of their contracted role or voluntary position description. As a regulated healthcare professional they would be expected, by the NCNZ or MCNZ, to use their professional knowledge, judgement and skills to determine occasions where it would be appropriate to work outside their Kaiāwhina or voluntary role parameters. In these situations, the regulated nurse, NP or midwife should be able and prepared to account for their actions.

Role confusion

- Other staff, healthcare consumers and family/whānau might know a staff member is a RN/EN/NP/midwife or has previously practised in such a capacity and as a result may expect them to work outside the current job description.
- Nurses, NPs or midwives in this position are obliged to be very clear with their manager, other staff, healthcare consumers and family/whānau that they are working within a non-regulated job description only.
- In order to avoid misleading people in their care, nurses, NPs or midwives working as Kaiāwhina or doing voluntary work, must ensure they can be identified as working in support of regulated staff, e.g. by wearing appropriate name badges for that state their role.
- Professional Practice

- In order to meet the requirements for the maintenance of registration, nurses are required by NCNZ to have undertaken: a minimum of 450 hours practice and at least 60 hours of learning activity relevant to practice (professional development), during the three years prior to renewal of registration.
- Nurses working as Kaiāwhina or voluntary workers, particularly for an extended length of time, would need to be able to demonstrate to NCNZ they are competent to practise and able to meet these requirements if they wish to retain their registration and annual practicing certificate.
- Similar criteria applies to NPs and midwives.

Vicarious liability

- Vicarious liability means the employer is accountable for the standard of care delivered and is responsible for employees working within the agreed limits of competence, appropriate to the abilities of that employee.
- To remain covered by an employer's vicarious liability clause, an employee must only work within their area of assessed competence and within the responsibilities of their role and job description.
- Nurses, NPs or midwives, who undertake unregulated roles should inform their employer they are on the NCNZ register as a nurse or NP, or the MCNZ register as a midwife, and that in exercising their professional accountability, they may be required to step outside their contractual tasks (in agreed exceptional circumstances only). They should also seek to ensure their contract recognises the extent and parameters of their role and that the job description clearly states what is expected of them in this role.
- NZNO recommends that nurses, NPs or midwives in this position contact their professional organisation to discuss the scope of their own indemnity insurance and ascertain if, and to what extent, they are indemnified when working in support roles.

Internationally qualified nurses (IQN)

Internationally qualified nurses (IQNs) who may be waiting for registration in New Zealand but are not currently holding a legal practicing certificate under New Zealand law, are expected to practise within their caregiver/HCA job description. To reduce potential harm we recommend caregivers in this situation do not practise outside their job description, even if they may have the knowledge from their previous employment, until they become registered and therefore regulated under New Zealand law.

References and Bibliography

Midwifery Council of New Zealand. (2024). Standards of Competence for kahu pōkai midwives. <https://www.midwiferycouncil.health.nz/common/Uploaded%20files/Registration/Competencies%20for%20entry%20to%20the%20Register.pdf>

Midwifery Council of New Zealand. (2021). Code of midwifery professional conduct. <https://www.midwiferycouncil.health.nz/common/Uploaded%20files/Registration/Code%20of%20Conduct.pdf>

Nursing Council of New Zealand. (2012). Code of conduct for nurses. https://www.nursingcouncil.org.nz/Public/NCNZ/nursing-section/Code_of_Conduct.aspx

Nursing Council of New Zealand. (2025). Standards of competence for registered nurses. <https://www.nursingcouncil.org.nz/common/Uploaded%20files/Public/Nursing/Registered%20nurse/NCNZ031-Competencies-RN-11.pdf>

Nursing Council of New Zealand. (2017). Competencies for the mātanga tapuhi nurse practitioner scope of practice. https://www.nursingcouncil.org.nz/Public/NCNZ/nursing-section/Nurse_practitioner.aspx?hkey=1493d86e-e4a5-45a5-8104-64607cf103c6

Nursing Council of New Zealand. (2024). Standards of competence enrolled nurses. https://www.nursingcouncil.org.nz/Public/NCNZ/nursing-section/Enrolled_nurse.aspx?hkey=963854c0-246c-4bb1-800c-920a19b022dc

New Zealand Government. (2003). HPCA Act. Wellington: New Zealand Government. <https://www.legislation.govt.nz/act/public/2003/0048/latest/DLM203312.html>

Nursing and Midwifery Council. (2012). Registered nurses working as healthcare assistants. <https://careintheuk.wordpress.com/2012/02/19/registered-nurses-working-as-healthcare-assistants-hcas/>

Date adopted: October 2012

Review date: 2025

Reviewed by: Wendy Blair

Principle author: Professional Services Team

Correspondence to: nurses@nzno.org.nz

Mission Statement

NZNO is committed to the representation of members and the promotion of nursing and midwifery. NZNO embraces Te Tiriti o Waitangi and works to improve the health status of all peoples of Aotearoa New Zealand through participation in health and social policy development.

©2025 This material is copyright to Tōpūtanga Tapuhi Kaitiaki o Aotearoa: The New Zealand Nurses Organisation Incorporated. Apart from fair dealing for the purpose of private study, research, criticism or review, as permitted under the Copyright Act, no part of this publication may be reproduced by any process, stored in a retrieval system or transmitted in any form without the written permission of the Chief Executive of Tōpūtanga Tapuhi Kaitiaki o Aotearoa: New Zealand Nurses Organisation (NZNO), PO Box 2128, Wellington 6140.