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30 April 2025

Hon. Simeon Brown, Minister of Health

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Submission on Putting Patients First: Modernising Health Workforce Regulation

Te Whare Piki Ora o Māhutonga – the Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical education in Aotearoa New Zealand and Australia. Our mission is '*To improve access, equity, quality and delivery of surgical care that meets the needs of our diverse communities'*. Health advocacy is a central competency of a surgeon, and a core value of this College.

RACS welcomes the review of the Health Practitioners Competency Assurance Act 2003 (the Act) as initiated 28 March by release of the consultation document *Putting Patients First: Modernising health workforce regulation*. There may be opportunities for improvements in the system and we are keen to engage in good faith with the review. However, we do not believe the current tone, focus and process will identify and test the best options and solutions for improvements to the regulation of the health workforce.

Our key concerns relate to:

- purpose – the lack of focus on the purpose of the Act to "protect the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise their professions."
- cultural safety - the proposed reduction of focus on cultural safety, which is crucial for patient-centred care
- the role of regulators and professional colleges – the tone of the documents undermines the role of regulators and professional colleges in maintaining health standards and implies health workforce regulation is the cause of New Zealand's health workforce shortages
- the consultation process – the short timeframe, consultation document and online survey, do not meet the standards for a fair public sector consultation process.

Each of these is explored in more detail as follows:

Purpose of the Act

The consultation document does not provide sufficient weight to the purpose of the Act, which is to "protect the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise their professions." The focus of the consultation overwhelmingly seems to be on efficiency and cost saving.

We acknowledge there are opportunities for regulatory improvements and encourage the exploration of creative solutions to enhance the system. We welcome the emphasis on making the regulatory system more transparent, strengthening the voice of the consumer, greater patient input and engagement, and better collaboration between regulators.

However, we urge caution, particularly in areas where regulatory relaxation could pose risks, especially when compared to health and safety standards.

We are keen to work with you to identify opportunities to better protect the health and safety of people who interact with the healthcare system, to improve efficiency, performance, and patient outcomes. However, we do not believe the current consultation process will achieve these objectives.

Cultural safety

The consultation document suggests cultural safety is not related to clinical quality and safety.

> "*Regulators today often encourage or require health practitioners to consider factors beyond clinical safety. In some cases, this involves requiring certain professions to favour cultural requirements in hiring decisions, such as mandating an understanding of tikanga Māori*."

This is factually incorrect. Job descriptions and hiring requirements are the responsibility of the employer, the largest one being Te Whatu Ora.

Clinical safety is only one aspect of a myriad of skills required to form a competent health force, others include professional skills including decision making, communication, collaboration, teamwork, cultural competence, cultural safety, health advocacy, scholarship and teaching. All of these are essential to the appropriate and ongoing function of the medical work force. To start to remove essential skills, for political reasons, can only degrade the services supplied to the populace.

Each of these skills are heavily interwoven within any patient interaction. If a practitioner is culturally unsafe, then this will affect clinical safety.

Cultural safety focuses on creating an environment where patients feel respected and safe, free from racism and discrimination. Only in this setting can a doctor patient relationship flourish so that the free flow of essential information can be optimised. Cultural safety is crucial for patient care, especially for Māori, Pacific peoples, and other marginalised groups.

Regulators are tasked with protecting the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise their professions. To do this they must consider factors beyond technical competence.

When considering the assessment of practitioners from overseas it is vital these practitioners understand the working environment they are joining in Aotearoa New Zealand so they can provide culturally safe care to our Māori and Pacific peoples patients as well as other marginalised groups who currently have poorer health outcomes.

Undermining the role of professional colleges

The consultation document and survey questions use a tone that undermines the role of professional colleges in maintaining health standards. For example, the statement:

> *"When most members of an authority are practitioners, decisions are more likely to be based on the interests of the profession, which may not match the public interest."*

First, the statement above suggests health practitioners on do not consider patients or consumer voice when making decisions, which is untrue and an unfair reflection on the health workforce who are patient-facing in their everyday work. It is critical we maintain the involvement of doctors in setting the standards for doctors. Their medical expertise, grounded in their training, practice and experience, plays a vital role in keeping patients safe, in reviewing and setting standards for their peers, and in considering workforce needs to respond to new challenges. This is also true of other health professional bodies. Regulatory boards also benefit from appointing practitioners from adjacent health professions, researchers and academia. Most doctors have made significant unpaid sacrifices at the expense of their families for the betterment of the health of their patients and statement is crass and undermines that commitment.

Second, there is a pervasive incorrect implication health workforce regulation is the cause of New Zealand's health workforce shortages.

> *"Currently, regulatory authorities will recognise some overseas qualifications, particularly from Australia, if they are similar enough to New Zealand qualifications."*

The sentence above is incorrect as it implies regulators do not recognise many overseas qualifications when in fact Te Kaunihera Rata o Aotearoa - Medical Council of New Zealand (MCNZ) recognises 26 countries as having health systems comparable to New Zealand under its Comparable Health System registration pathway.

> *"I keep hearing about doctors from overseas who want to work here but can't. I know we need more doctors, why is it so hard?"*
>
> *"Instead of welcoming these qualified workers, we've created complicated bureaucratic barriers that discourage even the most motivated individuals from staying."*

The two sentences above do not recognise medical colleges' ongoing collaboration with MCNZ to expedite the recognition of qualifications for overseas-trained doctors. If overseas-trained doctors' qualifications are not recognised, it is because their qualifications and experience are not at a level for them to practice their surgical specialty safely in Aotearoa New Zealand. It would be improper for the regulators to override patient safety considerations in the interests of relieving workforce shortages. Even when qualifications are recognised, some overseas-trained doctors find adjusting

to the Aotearoa New Zealand healthcare system and culture challenging, and they require significant supervision.

The further implication is the reason international health professionals do not stay in New Zealand is because of regulation. It ignores support, renumeration, cultural adaption and other variables that have been studied and researched on this topic. A national exit interview programme would provide useful insights.

Consultation process

Through the Council of Medical Colleges (CMC), we urged Manatū Hauora to withdraw the current documents, and called for a more thorough, transparent, accessible and inclusive consultation process to be initiated. We also support the letter from CMC to the Office of the Ombudsman as the process breaches its guidelines for fair public sector consultation processes – especially the requirement to be objective, open-ended, evidence-based, unbiased, and politically neutral.

A one-month consultation period is insufficient for such an important review, and indicative it is not being conducted in good faith. The absence of the usual information webinars and Q&A sessions restricts meaningful engagement from the more than 100,000 people who work in the health sector in Aotearoa New Zealand, particularly those directly involved in healthcare delivery.

Second, the discussion document contains factual inaccuracies, oversimplifies complex matters, uses leading questions and employs inflammatory language that misrepresents the current situation. See examples of factual inaccuracies previously identified in relation to cultural safety and undermining the role of healthcare professionals. The questions seem designed to elicit certain responses.

Third, the online survey poses leading questions which are not indicative of good faith consultation. Questions should be open-ended and objective to elicit genuine feedback from patients, consumers and other interested groups.

Manatū Hauora has advised it will only be analysing submissions made through the online survey portal, and we should use the free text boxes to share our views on health workforce regulation. We have done so, although this requires some contortion given the focus of the questions. We have also been advised correspondence sent to the workforce regulation email address will be read by members of the team, although will not be included in the formal submissions analysis. Given the deficiencies in the online survey, we have also chosen to make this additional submission.

We note the assurance the policy advice on potential changes to the direction of health workforce regulation will, as always, be informed by evidence, including international best practice, and the views expressed through consultation.

Conclusion

We consider the review of the Act does not focus on the purpose of the Act, which is to "protect the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise their professions."

This is reflected in the proposed reduction of focus on cultural safety, which is crucial for patient-centred care; and a tone that undermines the role of professional colleges in maintaining health standards and implies health workforce regulation is the cause of New Zealand's health workforce shortages.

We encourage Manatū Hauora to consider both public submissions and the broader range of perspectives of unions, professional colleges, and health workers when considering the submissions and shaping subsequent policy advice on health workforce regulation.

We would be pleased to discuss these matters further to help achieve a fair, safe, and sustainable health system in Aotearoa New Zealand.

Nāku noa, nā

Ros Pochin	**John Mutu-Grigg**
Chair	**Chair**
Aotearoa New Zealand National Committee	**Māori Health Advisory Committee**

RACS represents more than 8300 surgeons and 1300 surgical Trainees and Specialist International Medical Graduates across Aotearoa New Zealand and Australia. We are the accredited training provider in nine surgical specialities. Surgeons are also required by RACS and Te Kaunihera Rata o Aotearoa - Medical Council of Aotearoa, to continue with surgical education and review of their practice throughout their surgical careers.