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Ministry for Regulation, RSBconsultation@regulation.govt.nz

Proposed Regulatory Standards Bill

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. A strong focus on health advocacy is a key competency of a surgeon, and core value of this College. We are committed to achieving a fair, safe and sustainable health system delivering **equitable** access, healthcare services, and outcomes for Māori and for Pacific peoples consistent with the Pae Ora (Healthy Futures) Act 2022.

RACS is strongly opposed to the proposed Regulatory Standards Bill.

1. We understand the proposal to introduce a Regulatory Standards Bill reflects a Coalition Agreement to legislate to improve the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency. We note this is the fifth attempt to introduce a version of this Bill since 2006.
2. **Endorsement of NZCPHM's Submission:** RACS supports the New Zealand College of Public Health Medicine's (NZCPHM) submission and the public health priorities in NZCPHM's *He Ara ki te Tahi o Pae Ora (a pathway to the pinnacle of healthy futures)*¹.
3. **Summary of our opposition to the proposed Bill:** The principles outlined in the Bill are:
 - selective and narrow, focusing on individual and corporate rights, property rights, and restricting the role of government
 - lacking key public health priorities like equity, environmental sustainability, the precautionary principle, the rights of future generations and te Tiriti principles
 - likely to constrain future governments' ability to prioritise and protect public health, the wellbeing of future generations, the environment, and the rights of Māori
 - driving the introduction of unnecessary costly new legislation which could increase the burden on our health system.
4. **Concerns About the Bill's Impact:** RACS argues the proposed Bill would likely undermine public health priorities such as health equity, climate change mitigation, and reducing harm from commercial determinants of health. The Bill could also increase pressure on the already overstretched healthcare system.
5. **Disagreement with the Bill's Economic Assumptions:** RACS disputes the Bill's claim that poor productivity is mainly due to poor regulations, suggesting other factors such as inequitable health outcomes, poverty, and poor housing are also significant contributors.
6. **Narrow Principles of Regulation:** The principles in the proposed Bill are excessively focused on individual, corporate and property rights while excluding broader concerns such as human rights, societal well-being, and environmental sustainability. These principles are viewed as reflecting a libertarian ideology, potentially undermining future government actions to protect public health and Māori rights.

The Bill should adopt a more comprehensive, fair, and sustainable approach, aligning with existing legislative frameworks and ensuring the protection of both current and future generations.

¹ NZCPHM. Health for Everyone | Ō Tātou Hauora. October 2023. <https://nzcphm.org.nz/Policy-overview/10938/>



7. **Absence of Te Tiriti Consideration:** RACS highlights the lack of explicit reference to te Tiriti (the Treaty of Waitangi), which is a foundational document in Aotearoa New Zealand's constitutional framework. Any set of principles for responsible regulation in Aotearoa New Zealand must address how the Crown will meet its obligations to Māori under te Tiriti. The ministry's own advice notes "*the absence of this explicit reference may be seen as politically significant for Māori and could be perceived as an attempt by the Crown to limit the established role of the Treaty/te Tiriti as part of law-making*".²
8. **Concerns Over the Regulatory Standards Board:** The establishment of a Regulatory Standards Board, which could review regulations in response to complaints, is seen as problematic. This could open the door for businesses or individuals to challenge regulations intended for public health or environmental protection. The remit of the Regulatory Standards Board would also be considerably narrower than that of the Courts which consider wider societal perspectives. Whether such an entity can be truly independent and possesses the required expertise on matters such as public health, the environment or Indigenous rights is also questionable.
9. **Excessive Powers for the Minister for Regulation:** The Bill would grant the Minister for Regulation significant powers to determine how regulatory principles should be applied, potentially reducing government accountability and public trust.
10. **Existing Regulatory Success and Fiscal Concerns:** The document points out Aotearoa New Zealand already performs well in terms of regulatory quality, suggesting improvements could be made without introducing a costly new Bill. Given fiscal constraints, RACS believes the Bill would impose unnecessary costs on the health system.

Strong Opposition to the Bill: RACS strongly opposes the proposed Bill in its current form and recommends it not proceed further. It must be substantively modified to balance various rights and interests, particularly ensuring Māori rights under te Tiriti are respected.

We offer to engage in discussion to address these concerns and contribute to development of a more balanced regulatory approach.

Nāku noa, nā

Ros Pochin

Chair

Aotearoa New Zealand National 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.

² Ministry for Regulation. Preliminary Treaty Impact Analysis for the proposed Regulatory Standards Bill. <https://www.regulation.govt.nz/assets/Publication-Documents/Preliminary-Treaty-Impact-Analysis-for-the-proposed-Regulatory-Standards-Bill.pdf>