

25 June 2020

Steve Osborne
Ministry of Health

By email: steve.osborne@health.govt.nz

Core Performance Standards for Responsible Authorities

Dear Steve

The New Zealand Medical Association (NZMA) wishes to provide feedback on the above consultation. The NZMA is New Zealand's largest medical organisation, with more than 5,000 members from all areas of medicine. The NZMA aims to provide leadership of the medical profession, and to promote professional unity and values, and the health of all New Zealanders. Our response has been informed by feedback from our Board and Advisory Councils.

We note that the requirement for independent performance reviews of responsible authorities was introduced when the Health Practitioners Competence Assurance Act (HPCAA) 2003 was amended in 2019. We note that the purpose of performance reviews is to provide the Crown and the public assurance that responsible authorities:

- are carrying out their required functions in the interests of public safety
- that their activities focus on protecting the public without being compromised by professional self-interest
- that their overall performance is conducive to high public confidence in the regulatory system.

While the NZMA is comfortable with the concept of performance reviews of responsible authorities, we conveyed a number of concerns at the time the HPCAA was amended, including our view that it would be better to use a common set of principles that inform reviews of all responsible authorities.¹ We are pleased to note that the Ministry has done this by setting out the high-level requirements for performance reviews in these general terms of reference but note that more detailed requirements will be set by the Ministry in consultation with the responsible authority being reviewed.

¹ NZMA. Submission on Health Practitioners Competence Assurance Amendment Bill. 29 March 2018. Available from <https://bit.ly/37IwY0v>

It is important that responsible authorities are accountable over a wide-ranging set of performance standards to ensure they are meeting their purpose. We are in agreement with the guiding principles that are being suggested and believe that a well-functioning responsible authority would have no problem complying with these. We agree that there should be a focus on qualitative, not quantitative, outcomes. While we note the report must be made available to the responsible authority, we contend there may also be value in making the recommendations embedded therein, public.

The main focus of our feedback relates to ensuring independent performance reviews of responsible authorities address the issue of extension or redefinition of scopes of practice (and related issues such as the qualifications required). Currently, responsible authorities determine their own scopes of practice and do not have any legislative requirement to consult when extending or redefining these. We believe this represents a serious risk to public safety and could also allow professional self-interest to compromise a focus on protecting the public. For example, in 2016, the Physiotherapy Board determined that injection to intra and extra articular tissues and joint spaces was under the existing general scope of practice for physiotherapists without having consulted with the relevant medical organisations such as the College of Radiologists. We believe that independent performance reviews could provide an opportunity to address this current deficiency in the regulatory system.

We submit that the independent performance review should consider whether a responsible authority has consulted with other groups beyond its own profession when it seeks to extend or redefine scopes of practice, and to determine the qualifications that are required for this purpose. As such, we ask the Ministry to add the following performance review standards under the functions that deal with scopes of practice and qualifications required:

- the responsible authority has consulted widely, and given due consideration to feedback received, when seeking to extend or redefine scope of practice
- the responsible authority has consulted widely, and given due consideration to feedback received, when prescribing qualifications required for scopes of practice within the profession.

Finally, there is concern at the additional cost that will be incurred as a result of this additional requirement for independent performance reviews of responsible authorities. There is a view that these costs should, at the very least, be shared between the Ministry of Health and the responsible authority, if not borne fully by the government.

We hope our feedback is helpful and would like to be kept informed of this work as it progresses.

Yours sincerely

A handwritten signature in blue ink that reads "K. Baddock". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Dr Kate Baddock
NZMA Chair