



4 April 2018

Louisa Wall
Chairperson
Health Select Committee
Parliament Buildings
Private Bag 18041
WELLINGTON
health@parliament.govt.nz

Dear Louisa

Re: Health Practitioners Competence Assurance (HPCA) Amendment Bill

The New Zealand Society of Anaesthetists (NZSA) welcomes the opportunity to provide feedback on the above legislation.

About the NZSA

The NZSA is a professional medical education society, which represents over 600 medical anaesthetists in New Zealand. Our members include specialist anaesthetists in public and private practice, and trainee anaesthetists. We facilitate and promote anaesthesia education and research and advocate on behalf of our members' professional interests and the safety of their patients. As an advocacy organisation, we develop submissions on government policy and legislation, work collaboratively with key stakeholders, and foster networks of anaesthetists. The NZSA, established in 1948, also has strong global connections, and is a Member Society of the World Federation of Societies of Anaesthesiologists (WFSA).

Overview

The New Zealand public must have trust and confidence in the standards of practice and competence of health professionals in New Zealand. The primary focus of the HPCA Act 2003 is to protect the health and safety of the public by providing a regulatory framework to ensure that practitioners are competent and fit to practise. The NZSA is strongly supportive of this framework and professional self-regulation. We recognise that the Bill follows two reviews of the Act (in 2009 and 2012) which concluded that the legislation is working well but that some legislative amendments were needed. Overall, we are supportive of the aims of the proposed changes which seek to improve public transparency in relation to the performance of responsible authorities and the competence of practitioners. We have provided comments on some of the proposals below and outlined some concerns. Additional comments are also provided which look at the need to safeguard the welfare of doctors who are subject to a complaint and/or investigation.

Comments on some proposed changes in the Bill

- **Section 122A Performance reviews of responsible authorities (RAs)**

The Bill seeks to introduce five-yearly performance reviews of RAs to help ensure that they effectively regulate their respective professions to promote good practice and improve public safety. The Bill states that reviews will be carried out by independent reviewers in line with indicators developed by the Ministry of Health, in consultation with the RA. While formal reviews of RAs are sound in principle, the details around this are seriously lacking including criteria for assessing performance, assessment methodology and the consequences for RAs found to not be performing as required. There is also a lack of detail around who these 'independent reviewers' will be. More information is needed to be able to comment on this section of the Bill.

- **Greater visibility of disciplinary decisions**

The Bill seeks to improve public transparency in relation to decisions RAs make about health practitioners who are subject to a complaint by making information more widely available. We support the proposals in the Bill that RAs will need to develop policies to explain how they came to their decision, including principles and criteria under which a health practitioner may be named publicly. We also support the proposal that these naming policies be consulted on and reviewed every three years.

The Bill will also require RAs to release information to the person who notified them with concerns about a practitioners' competence and/or conduct, to inform that about decisions made regarding the practitioner. The NZSA supports this approach as well as the need to notify employers as is outlined in the Explanatory Notes Part 1 Amendment to Principle Act, Clause 9 and Clause 10 which specifically state: requires that a copy of the order...be given not only to the health practitioner concerned, but also to the employer of the health practitioner and in person working in partnership or association with the health practitioner. We support this clause but believe clarification is needed in relation to the terms partnership and association – does this refer to a legal partnership, and what is meant by 'association.'

This notification should also be extended to other institutions or credentialing bodies. Given that practitioners are largely working unsupervised in the private sector, a process such as this must be established for the private sector to protect both the medical practitioner and patients. It is of course a balancing act in that we need the public to be aware that there are avenues and robust processes in place to make a complaint, we need to disseminate information about a complaint when it is in the public's interest, while also fostering an environment where health practitioners are not afraid to own up to mistakes, and where the focus is on improving healthcare delivery, especially at a systemic level.

- **Protection for health practitioners subject to a complaint and/or investigation**

We wish to discuss the welfare and well-being of health practitioners who are subject to a complaint and/or investigation. It is widely recognised that there is an alarming prevalence of mental health issues in the medical profession, including high rates of depression and/or suicide. We are also aware that those who are the subject of a complaint or investigation are especially at risk. As a profession, anaesthetists are now working collaboratively through the College, the Anaesthesia Welfare Special Interest Group, the NZSA and the Australian Society of Anaesthetists, to develop a framework to support the welfare of anaesthetists across a range of areas. As part of this multifaceted approach we would like to encourage the MCNZ, and other organisations such as the HDC, which lead disciplinary processes, to consider the welfare of doctors by activating a support and welfare process for the health practitioner who is the subject of a complaint. While protecting the patient is paramount, we must not lose sight of the welfare and well-being of the health practitioner.

- **Section 118 amended authorities to promote and facilitate inter-disciplinary collaboration**

The Bill aims to achieve better teamwork among health practitioners to deliver more integrated, cohesive healthcare delivery. The NZSA recognises that many HDC complaints arise from communication failures, including among different health professionals involved in a patient's treatment. However, while interdisciplinary cooperation is a commendable goal, we concur with our colleagues at the Australian and New Zealand College of Anaesthetists and the New Zealand Medical Association who question the feasibility of legislating for inter-disciplinary collaboration. Working as a team already sits under professionalism and professional conduct.

- **Section 116 Amalgamation of authorities**

The Bill proposes to allow the Health Minister to amalgamate existing RAs. Our main concern is that decisions to amalgamate may compromise patient protections specific to a professional group. We therefore do not support amalgamation, although our concerns are partly allayed by the proposed requirement to consult the authorities before amalgamation, and to consider the public interest as the primary criterion before a decision is made.

- **Better workforce information for workforce planning**

The Bill proposes mandatory provision of workforce data by RAs e.g. through workforce surveys, to the Ministry of Health to support workforce forecasting and modelling. While this proposal is based on helping to ensure we have sufficient health professionals by specialty and region to meet the healthcare needs of our population, we believe that the collection of workforce data is outside the scope of the Act. This may be best addressed by improving the contracts between Health Workforce New Zealand and RAs, to provide this information.



If you have any questions regarding our submission, please contact me at president@anaesthesia.nz

Yours sincerely

A handwritten signature in dark blue ink that reads "David Kibblewhite". The signature is written in a cursive style with a horizontal line at the end.

David Kibblewhite
President