

11<sup>th</sup> February 2022

## **Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill**

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The New Zealand College of Midwives is the professional organisation for midwifery. Our members are employed and self-employed and collectively represent over 90% of the practising midwives in this country. There are approximately 3,000 midwives who hold an Annual Practising Certificate (APC). These midwives provide maternity care to, on average, 60,000 women and babies each year. New Zealand has a unique and efficient maternity service model which centres care around the needs of the woman and her baby.

Midwives undertake a four-year equivalent undergraduate degree to become registered followed by a first year of practice program that includes full mentoring by senior midwives. The undergraduate curriculum meets all international regulatory and education standards. Midwives are authorised prescribers in relation to their Scope of Practice as determined by the Midwifery Council.

Midwives provide an accessible and primary health care service for women in the community within a continuity of carer model as Lead Maternity Carers. Midwives can also choose to work within secondary and tertiary maternity facilities, providing essential care to women with complex maternity needs.

The College offers information, education and advice to women, midwives, district health boards, health and social service agencies and the Ministry of Health regarding midwifery and maternity issues. Midwives interface with a multitude of other health professionals and agencies to support women to achieve the optimum outcome for their pregnancies, health and wellbeing

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New Zealand  
**College of Midwives**  
TE KĀRETI O NGĀ KAIWHAKAWHANAU KI AOTEAROA

11<sup>th</sup> February 2022

Committee Secretariat

Committee Secretariat

Education and Workforce Committee

Parliament Buildings

Wellington

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## **Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill**

Tēnā koutou,

The New Zealand College of Midwives (the College) welcomes the opportunity to provide feedback on the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Bill. Midwifery is a profession concerned with the protection, promotion and support of women's health, along with the health and wellbeing of their infants. The College has provided detailed feedback in the past in regards to maternal birth injuries, and we are pleased to see that the importance of removing / reducing barriers to health care for women is being recognised. The right to health is a human right and this extends to the reproductive and sexual health of women which they are entitled to without discrimination. We congratulate the Government for initiating these welcome and overdue changes.

Birth injuries are unintended consequences of birth. Severe birth-related injuries affect a small percentage of women, but it is important to recognise the extent of support that may be needed for healing, and to make public services easily accessible in a timely manner to support recovery. The extension of ACC to cover a broader and less severe range of birth related injuries is welcome.

Feedback from the College is below.

1. Maternal or neonatal birth injuries may occur as part of the birth process and are not necessarily caused by treatment or lack of treatment. The College is supportive of the

intention to create a separate category for birth injuries within the ACC Act, so that claims for treatment support do not need to be considered within the treatment injury process.

2. The College notes that a list of maternal birth injuries that can be covered are described in Schedule 3A. The College considers that this list is insufficient and that all birth-related maternal injuries should be covered by this Amendment Bill. Including a specific list of physical injuries is inherently problematic as a portion of injuries will always be excluded by taking this approach. For example, significant injuries such as tailbone or coccyx injuries, injuries to the pelvis or spine, injuries to ligaments, prolapses or scarring are excluded from the proposed list, yet these injuries can be caused through the birthing process. Failing to include all injuries will simply compound existing inequities in access to treatment and care. A more inclusive and equitable approach would be to remove the list approach and enable health professionals to diagnose birth injuries. This would make the process for those seeking care faster and less complex, and improve gender equity in access to ACC support. Access to early treatment for physical maternal birth related injuries will not only improve the health and wellbeing of mothers, but also prevent longer term morbidity which is more costly to the health system and to the wellbeing of those who have suffered injuries.
3. In addition, the College considers that psychological or emotional trauma resulting from birth also needs to be included within injuries covered by the proposed legislation change. Birth-related emotional or psychological trauma can have long lasting effects for women, which in turn impact adversely on children and families. It can be many months or years following a birth before women are ready to seek help to resolve birth-related emotional or psychological trauma. In some instances, women describe such trauma as being a deterrent to having more children. The College recommends that any time limits on access to counselling or psychological support services to heal and resolve emotional or psychological birth trauma, are open-ended to accommodate any delay in seeking assistance. The College recommends that the voices of consumer advocacy groups who are supporting those who have the lived experience of psychological or emotional birth trauma need to be carefully considered in how the legislation could be revised to include this category of birth trauma.
4. Childbirth and maternity care can trigger distressing memories for victims of sexual abuse.<sup>1</sup> Women who experience sexual abuse or assault are entitled to apply for ACC-funded

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<sup>1</sup> Montgomery, E., Pope, C., & Rogers, J. (2015). A feminist narrative study of the maternity care experiences of women who were sexually abused in childhood. *Midwifery*, 31(1):54–60. <https://doi.org/10.1016/j.midw.2014.05.010>

therapy, but the application and assessment process is lengthy and complicated which may be retraumatising for some women. The proposed legislative changes could waive the lengthy assessment process for women who are due to give birth, in order to enable access to timely treatment to resolve sexual trauma prior to the birth of their baby.

5. The College recommends that all birth-related injuries to newborns are also included in this legislative change. Currently only a portion of families receive cover for birth injuries affecting newborns. Some of these can result in long-term health care and support needs for the child. These cases currently need to go through the treatment injury assessment process, and as a significant number do not occur as a result of a treatment injury, many families are denied access to ACC-funded support, and are instead required to rely on the under-resourced health and disability system to support their ongoing needs. There is a markedly different level of service available for families, between ACC-funded services and those available in the non-ACC-funded aspects of the health and disability system. This difference in access to support is fundamentally inequitable, leaving families who cannot access ACC services with limited assistance.
6. The proposed date for the legislation to take effect is 1 October 2022. There are many women and families who have been impacted by birth-related injuries who will be ineligible to receive ACC-funded cover or care. Consideration should be given to backdating access to care and treatment to reduce this inequity.
7. The Amendment Bill does state that one of the objectives is to provide more equitable cover. The College considers that maternal birth injuries should be fully covered by ACC as partially covered claims will perpetuate inequity and limited access will remain an issue for many women. Unfortunately the dualistic nature of health service provision which has resulted from differences in the funding approach between ACC and the Vote Health-funded public health and disability system, have seen capacity within 'private' (ACC funded) providers grow and develop. The College is concerned that expanding the provisions in ACC cover for birth injuries will potentially further entrench the current inequitable access to non-ACC-funded services due to a lack of provider capacity in the public health and disability sector. Specialist physiotherapy services are an example of this inequity, as capacity is largely concentrated in the private sector with limited availability and access within publically funded services. Expanding access to care and treatment for birth injuries needs to be accompanied with a workforce development strategy so that sufficient services are available for those who need them in whichever capacity they are funded.

8. Tino rangatiratanga / Māori control over Māori lives, and mātauranga Māori means that feedback from Māori on how Te Tiriti should be honoured within this Amendment Bill to support equitable, culturally safe access to support, and treatment, is a key part of addressing inequity and making transformational change.
9. A systematic review and meta-synthesis in 2019 indicated that actions to improve Māori experiences of healthcare included the integration of tikanga into health services, increasing Māori workforce capacity and involvement in health service development, resources for cultural competency, accessibility of health services, improved referral practices, and clinician responsiveness to Māori consumers.<sup>2</sup>
10. Eliminating health inequities must be written into the objectives of the Amendment Bill with specific reference to te Tiriti o Waitangi, te Tiriti articles and te Tiriti principles.
11. Consideration must be given to shortening the time it takes to process applications as applications can be unnecessarily difficult to undertake, and the process and delays in treatment can be overwhelming. A streamlining of the process is recommended.

## Conclusion

Treatment, care and support for all birth injuries should be accessible, available, timely and culturally appropriate and safe. Timely management of these injuries will not only result in improved quality of life for women and whānau but it will also reduce health care costs in the future.

The College would appreciate the opportunity to present an oral submission to the Select Committee.

Thank you

Ngā mihi,

Carol Bartle

Policy Analyst

New Zealand College of Midwives / Te Kāreti O Nga Kaiwhakawhanau Ki Aotearoa

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<sup>2</sup> Palmer, S.C., Gray, H., Huria, T., Lacey, C., Beckert, L., & Pitama, S. (2019). Reported Māori consumer experiences of health systems and programs in qualitative research: a systematic review with meta-synthesis. *Int J Equity Health*, 18(163): <https://doi.org/10.1186/s12939-019-1057-4>

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