New Zealand
College of Midwives
TE KĀRETI O NGA KAIWHAKAWHANAU KI AOTEAROA

Submission: Putting Patients First

Submission:

Kaupapa

The New Zealand College of Midwives (the College) | Te Kāreti o ngā Kaiwhakawhānau ki Aotearoa is the professional organisation for midwifery. Our members are employed and self-employed and collectively represent over 95% of the practising midwives in this country. There are approximately 3,300 midwives who hold an Annual Practising Certificate (APC). These midwives provide maternity care to, on average, 60,000 whānau each year. Aotearoa New Zealand has a unique and efficient maternity service model which centres care around the needs of the woman, her baby and whānau.

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 and their whānau, midwives, Health New Zealand | Te Whatu Ora, health and social service agencies, and the Ministry of Health | Manatū Hauora 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.

Date 22 April 2025

Email: workforceregulation@health.govt.nz

Tēnā koutou

The College welcomes the opportunity to provide a submission on the governments public discussion document, **Putting Patients First – Modernising Health Workforce regulation.**

General comment

We have answered each consultation question in our response below, and have also submitted these responses through the on line consultation portal. However we wanted to provide some additional overarching feedback to the Ministry of Health regarding the consultation document which outline some of our concerns about the assumptions which appear to underpin it.

Regulation provides a legal framework which supports and enables health professionals to function safely within the health system, ensuring accountability mechanisms, including the setting and monitoring of standards of competence and education. Although it is necessary to review and update regulatory regimes periodically to ensure they are fit for purpose and efficient, the College considers that some of the assumptions underlying the governments views and possible proposals as presented in the consultation document are flawed and deeply concerning.

In particular, one of the key directions in the document assumes that regulatory decisions should be influenced by system issues – beyond the ability of the practitioner to provide safe care such as workforce shortages and access to care issues. This College submits that the regulatory system is not the appropriate mechanism for addressing these issues.

Regulatory bodies should maintain independence and the ability to focus on public safety, health practitioner competency and conduct issues. Although regulatory bodies should work in collaboration with other agencies in the sector to understand the impacts of workforce and access issues, requiring their decision making to take account of such issues presents a significant potential conflict of interest. Regulation is about much more than registration, also fitness to practice and disciplinary processes, all are inter connected. The document does not explore what the public views are in relation to a potentially increased risk of harm as a result of potentially lowered regulatory standards.

The consultation document seeks to potentially intervene in regulatory regimes by shifting regulatory thresholds and over-rule decisions made by regulators. Yet the regulators would remain accountable to the public for decisions which could potentially be made outside of their control or jurisdiction.

Unusually, the discussion document lacks empirical data or evidence to support claims made within it, nor does it propose a range of options for consideration which would be the usual

process. It is also unusual to see questions which are somewhat misleading or leading respondents to a particular response in a consultation document, which should be clear, objective and evidence based, with the relative merits of various alternate options objectively presented.

The College considers that the consultation document, whilst contributing to advice that the Minister might receive from the Ministry about regulatory reform, does meet the expected government standard of a consultation, which is outlined in the Legislation Design and Advisory Committee guidance. Among many of the other unquantified assumptions included in the document, the College submits that no analysis has been provided to prove that collapsing or consolidating regulators will automatically result in cost savings or efficiencies. Although midwifery is aware that the cost of independent regulators to small professions is of concern, it is possible that small regulators may be more efficient or effective that a larger entity which combines a range of professions regulatory functions.

The document focusses only on the registration side of the regulatory framework and does not touch on fitness to practice and disciplinary processes. As such it fails to explore patient needs and expectation when they are not happy with the care provided by a practitioner or when there is an adverse outcome. In addition to not seeking public views on this aspect of the regulators function, the document does not link the direct risk of harm of the patient and impact on the system relative to lower or variable regulatory thresholds.

For such a significant regulatory change, it would be usual to circulate an exposure draft of proposed regulatory changes and also to ensure that a regulatory impact assessment had been completed.

There are particular challenges with equivalency of midwifery qualification due to other jurisdiction's models of care and therefore educational / competence requirements for midwifery internationally qualified practitioners. Therefore using international examples with countries such as Australia are misleading and concerning as New Zealand's education and regulatory standards for midwifery differ considerably between countries.

The College submits that regulators have a fundamental responsibility to ensure that cultural safety is included within regulatory frameworks. Clinical and cultural safety are intertwined and there is clear evidence that inequities in health outcomes can be related to care provision or system issues. Regulators are unable to mitigate that risk if cultural safety is not a consideration for registration and ongoing competency

Specific responses to consultation questions

1. **Patient Centered regulation**
   Would you be interested in having a say on any of the following?
   a. changes to scopes of practice (what health practitioners can do) and how this affects patient care
   b. qualification requirements

c. other professional standards (for example, codes of conduct) that impact patient experience

The experience of the midwifery profession is that the Midwifery Council routinely includes the public in consultation processes on significant regulatory matters such as renewing or updating the Midwifery Scope of Practice for example. Although consultation may be undertaken, regulatory authorities are not required to take account of the feedback received, from either the public or the respective profession. The College supports a change to health professional regulation which would require regulators to consult with the public on matters of regulatory significance however it is unless there is a requirement for regulators to take account of feedback received in their decision making, consultation is merely a tick box exercise.

Regardless of whether regulators should be required to undertake public consultation or not, regulators must base decisions on clear and objective evidence which should include specialist knowledge of the profession which they are regulating. Although public opinion is important, it objective evidence base rather than public opinion alone, should form the basis of regulatory decisions such as qualifications, standards of competence and training requirements.

Are there any other things you think the regulators should consult the public on?

Are there any health practitioners who are currently unregulated but should be subject to regulation to ensure clinical safety and access to timely, quality care?

Regulation should be proportionate to risk, and there are already processes through HPCA to make that the case. Expanding regulation to increase the number of workforces who are regulated needs to have a careful process which determines that the workforce or profession in question has met the threshold for regulation. If there is clear evidence of risk to the public and the capacity for self governance and ethical practice, and a clear and distinct body of knowledge which differentiates the workforce from other professions then regulation could be beneficial and possible.

2. *Do you think regulators should be required to consider the needs of patients and the workforce when making decisions?*

The current regulatory framework established under the Health Practitioners Competency Assurance Act (HPCA Act) already provides an effective framework for patient centered care by prioritising public protection. The HPCA Act places statutory responsibilities on regulators (who are ultimately accountable to the public) to ensure that practitioners are competent and fit to practice. Therefore regulators are already inherently focused on the interests of the public / patients in their decision making.

What are some ways regulators could better focus on patient needs?

The role of regulators which is to protect public safety so they are already inherently focused on the needs of patients. Responsibility for service delivery or meeting patient needs in terms of access to care belong with the services and health workforces delivering services to the

public. There are already existing mechanisms through the HPCA which enable regulators to adapt Scopes of practice or competencies to enable practitioners to respond to changing evidence, trends in health care or need.

> *What perspectives, experiences, and skills do you think should be represented by the regulators to ensure patients' voices are heard?*

Regulatory authorities already have laypeople as members who may be nominated by patient advocacy groups. However the role of regulators is governance. Although members of regulatory authorities will bring diverse perspectives (of which perspective of the public or a lay persons perspective is an essential part), individuals who are appointed to or elected onto regulatory authorities are not 'representative' in these roles. It is unreasonable, unrealistic and inappropriate to expect a member of the public to represent 'patients voices' as there will be a multitude of needs, experiences and expectations amongst patients, which lay representatives on a regulatory authority will be unable to represent. The question appears to conflate governance with representation, and the College submits that there would or could be other means by which regulators could engage with the needs of the public, other than having them as members of the regulatory body.

> *Do you agree that regulators should focus on factors beyond clinical safety, for example mandating cultural requirements, or should regulators focus solely on ensuring that the most qualified professional is providing care for the patient?*

Care is not clinically safe unless it is also culturally safe. The two concepts are therefore intertwined and both sit within the mandate of the regulators in terms of setting standards of competency, or requirements for education and training at under graduate and post registration levels. It is recognised that health practitioner and health system factors impact on the equitable and culturally safe provision of care and therefore it is essential that regulators have the mandate to focus on cultural and clinical safety. There is no means for a regulator to hold a practitioner to account if there are no requirements for registration and ongoing competency related to cultural safety or competence within the regulatory framework.

> *Do you think regulators should be required to consider the impact of their decisions on competition and patient access when setting standards and requirements?*

No. If regulators were required to consider the impact of their decisions on competition and patient access to care, there would be considerable risks to the public. It would create a conflict of interest for regulators and potentially shift the focus away from public safety. Funding models, policy, workforce planning and system design all impact on access to care, and should be the levers which the system uses to increase access to care, not regulatory decisions. The regulatory system is not the appropriate mechanism for addressing competition or improving access to services. Requiring regulators to consider competition and access would undermine the independence of regulators and therefore undermine public safety and confidence.

2. Streamlined regulation

How important is it to you that health professions are regulated by separate regulators, given the potential for inefficiency, higher costs, and duplication of tasks? Why?

To help improve efficiency and reduce unnecessary costs, would you support combining some regulators?

As a small profession which faces a high regulatory burden and very expensive practicing certificate fees, the midwifery profession is supportive of options which look at minimizing cost to practitioners.

However, it cannot be assumed that collapsing existing regulators into consolidated entities will automatically result in cost savings or efficiencies. There is no data provided within the consultation document to provide any basis for this assumption. Small regulators may be more efficient, timely and cost effective than larger entities. Without seeing alternative models proposed and analysis of these options in comparison with the status quo it is not possible to make an informed comment. We are only too aware of large-scale centralisation projects (e.g. Te Pukenga, Health NZ) where these resulted in extra layers of bureaucracy and cost being imposed, rather than the sought-after efficiencies.

Regardless of whether there is a consolidation of some regulators or regulatory functions, it is essential that there are profession specific processes around standard setting, and disciplinary and conduct functions. Each profession must have the right to independently determine its own standards and the frameworks against which practitioners are measured or assessed.

Practitioners and the public need to have confidence in the regulatory authority which governs their practice and that it has the specialist knowledge and capacity to do so. Any consolidation of administrative functions must not undermine this. It is also essential that each professions unique professional identity is maintained. This is an important part of being a health professional and it supports accountability and embodiment of the professional ethics, frameworks and philosophy of each profession.

3. Right sized regulation

Do you agree that these regulatory options should be available in addition to the current registration system?
- *accreditation*
- *credentialling*
- *certification*
- *any other options*

Whilst it is important to review alternative models of regulation, it is also important to recognize that introducing new methods can increase regulatory and administrative burden

unnecessarily. For example, introducing new cadres of health workers who have a limited range of activities which they are certificated to undertake could result in less efficient and fragmented care as these workers may be required to refer to other practitioners for additional care components. The HPCA Act and current framework already enable practitioners to expand the range of procedures or services that they can provide. It could be a more efficient model to simply enable these sorts of changes to occur more readily than bringing in new methods of regulation or new types of workers.

Do you think New Zealand's regulatory requirements for health workforce training, such as the requirement for nursing students to complete 1,000 hours of clinical experience compared to 800 hours in Australia, should be reviewed to ensure they are proportionate and do not create unnecessary barriers to workforce entry?

No, the standards for the New Zealand educated workforce should be set independently by New Zealand experts and regulators. The New Zealand maternity system differs from those of overseas jurisdictions and midwives are prepared to a high standard in order for them to be able to function safely within it. We already have considerable experience of Australian educated graduate midwives entering the profession in New Zealand. Australian educated midwives do not function at the same level as a New Zealand educated midwife due to the differences in education standards. Australian graduates require a lot of support to be fully functional within our system. Each profession within each country should determine its own education or training standards. The public want care to provided by appropriately educated health professionals as a base expectation.

Should the Government be able to challenge a regulator's decision if it believes the decision goes beyond protecting patient health and safety, and instead creates strain on the healthcare system by limiting the workforce?

No. undermining the independence of regulation by government interference is dangerous and poses a risk to public safety. Changing regulation standards to address workforce or health system delivery issues is a deeply flawed approach which will create perverse incentives to reduce the quality and standard of health professional competence and education.

This proposed approach appears to be a reinterpretation of what public safety means. The document does not provide any evidence to demonstrate that regulators decisions are causing issues which are straining the health system. Nor does the document provide any exploration of what the consequences would be if the government was invested with such powers. It is unconscionable that the government could challenge regulator decisions in regard to public safety and expect them to reduce the standards of competency.

The issues the government is seeking to address relate to workforce planning and development, funding and service delivery models, not regulatory decisions.

Do you support the creation of an occupations tribunal to review and ensure the registration of overseas-trained practitioners from countries with similar or higher standards than New Zealand, in order to strengthen our health workforce and deliver timely, quality healthcare?

No. Each profession needs to determine what standards overseas health professionals need to meet in order to gain registration in New Zealand. It is difficult to conceive how an occupations tribunal which would presumably be multi-disciplinary, could function effectively, given the differences in professions scopes of practice and standards. Such a tribunal would need to have specialist knowledge to make decisions about regulation and registration for each profession and it should be independent and free from political interference in order to make decisions in the interests of public safety. It is difficult to ascertain what would be different in relation to the current system where each regulator assesses applications for overseas registrants.

Regulators can be responsive to health system issues by fast tracking individual applications from overseas qualified health professionals for example who are planning to work in areas which are experience acute shortage, but not at the expense of the practitioner in question being required to meet the expected standard.

Recently midwives from two overseas countries whose qualifications appeared to meet NZ standards, received registration. However as soon as these midwives were deployed into the work place it became apparent their standard of competency was well below what NZ maternity service needed. This example highlights the challenges in assessing overseas qualified health professionals and the need for regulators to have thorough and robust processes in place which are independent and focused on public safety.

Should the process for competency assessments, such as the Competence Assessment Programme (CAP) for nurses, be streamlined to ensure it is proportionate to the level of competency required, allowing experienced professionals who have been out of practice for a certain period to re-enter the workforce more efficiently, while still maintaining clinical safety and quality of care? If so, what changes should be made?

The HPCA Act enables regulators to adjust and adapt competency assessment processes as necessary. There is no need to change legislation to enable these processes to be amended should they require amendment. It is not necessary to change legislation to enable more streamlined processes.

Do you believe there should be additional pathways for the health workforce to start working in New Zealand?
Introducing new pathways that bypass full regulatory assessment processes poses significant risks. Any new entry mechanisms need to be transparent, rigorous and subject to a regulatory approval process.

4. Future proofed regulation

Do you think regulators should consider how their decisions impact the availability of services and the wider healthcare system, ensuring patient needs are met?

Regulators are not responsible for staffing levels, service delivery models or service delivery. These matters are determined by the health system settings, funding and workforce strategies and employer practices. Blaming regulation for workforce shortages is misplaced.

Do you think the Government should be able to give regulators general directions about regulation?

As the entities which are responsible for public safety, they must remain independently able to make decisions on matters such as registration, regulation, disciplinary and conduct issues. Such functions require objectivity, professional and legal. Government influence over regulatory decisions would mean that they were subject to political and ideological influences which would undermine public safety and public confidence in them and our ultimately in our health system.

This could include setting priorities for the regulator to investigate particular emerging professions, or qualifications from a particular country to better serve patients' healthcare needs.

There are currently mechanisms in place for emerging professions to become regulated. The threshold at which a specific workforce or group of workers require regulation should be objectively assessed. Such functions may be better placed within the Ministry of Health than within a regulator, whose funding base is from the profession which it is regulating. Many countries do not have a single universal standard to which health professionals are educated, as their regulatory systems may be state level, or there may be multiple pathways to registration. Therefore each potential registrant requires full assessment before being granted registration. The Midwifery Council has recent experience of registering midwives from overseas countries whose qualifications appeared equivalent on paper, however when they commenced work as midwives in New Zealand, it has become clear that they are not able to function within the New Zealand maternity system as their level of experience is insufficient. Therefore careful assessment of each application, including clinical competency assessments may be necessary.

Do you think the Government should be able to issue directions about how workforce regulators manage their operations, for example, requiring regulators to establish a shared register to ensure a more efficient and patient-focused healthcare system?

The College supports mechanisms which enable collaboration of administrative functions and operations if it can be demonstrated that they minimise cost whilst retaining profession specific autonomy over regulatory functions which impact professional standards and public safety. Improving data sharing for workforce planning may be beneficial but it must not compromise data integrity or the ability of regulators to manage registers in a manner which aligns with their legislative responsibilities.

Do you think the Government should have the ability to appoint members to regulatory boards to ensure decisions are made with patients' best interests in mind and that the healthcare workforce is responsive to patient needs?

The government already has the right to appoint members to regulatory boards. Midwifery Council board members are all appointed by the Minister of Health, whereas some boards have a mixture of elected and appointed members. The HPCA Act required regulators to be focused entirely on the best interests of patients through protecting public safety.

Ngā mihi nui,

Alison Eddy
Chief Executive
New Zealand College of Midwives | Te Kāreti o ngā Kaiwhakawhānau ki Aotearoa