Te Kaunihera o Ngā Kāreti Rata o Aotearoa
COUNCIL OF MEDICAL COLLEGES
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9 December 2021

Pae Ora Legislation Committee
Parliament Buildings
Wellington
By email: pae.ora@parliament.govt.nz

Tēnā koutou,

Re: Pae Ora (Healthy Futures) Bill

Thank you for the opportunity to provide feedback on the Pae Ora (Healthy Futures) Bill, that sets out the new structure for the publicly funded health system. The Council of Medical Colleges (CMC) is the collective voice for sixteen medical colleges in Aotearoa New Zealand, and through its members aims to improve, protect and promote public health via a well-trained medical workforce providing high-quality medical care. Our member colleges provide support to over 9000 general and specialist medical practitioners working in a range of specialties in the Aotearoa New Zealand health system. Please note that some of our members will also feedback on the Bill with additional issues, separately.

The CMC has a strong interest in the Pae Ora (Healthy Futures) Bill, as the piece of legislation that will bring about the most significant changes to the health and disability system in over twenty years. Getting this piece of legislation right is critical for successful reform. The Council of Medical Colleges is generally supportive of the Bill but considers there are five main areas where the Bill needs to be strengthened, if it is to support the vision set out by the government to achieve pae ora, healthy futures for all New Zealanders. These are:

1. The social determinants of health
2. Population health
3. Te Tiriti o Waitangi and equitable health outcomes
4. Workforce
5. Governance for quality care

The CMC provides comment on these, among other issues, below.

We also note that the consultation period for submissions on the Pae Ora (Healthy Futures) Bill comes at a time when the health sector is managing a pandemic, including preparing for the delta variant of COVID-19 to be endemic; for further variants to arise; and rolling out Aotearoa New Zealand's biggest ever vaccination programme. The Health and Disability System Review (HDSR) report was published in March 2020, but essentially completed before COVID-19 arrived in Aotearoa New Zealand. The report identified a workforce at that time under immense pressure, with high stress levels. It is noteworthy that the Review preceded the workplace, societal; and personal turmoil that a pandemic

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of this scale has caused, and the pressure upon those in the health workforce must not be underestimated. The CMC appreciates the Government's need to progress with reforms at pace. However, we urge the Pae Ora Legislation Committee to consider that many of the most under pressure individuals and organisations in the health and disability sector may be unable to respond meaningfully or in a fully considered fashion in the timeframe given. The volume and depth of submissions should be considered in this context, and the Committee should consider what voices may be absent in this process and seek other ways to engage.

1. Social determinants of health

The Bill sets out its purpose (section 3) to provide for the public funding and provision of services in order to protect, promote and improve health; achieve equity; and build towards pae ora (healthy futures) for all New Zealanders. The health reforms overall also seek a stronger focus on public health and prevention of disease, as a means to achieving pae ora and health equity.

However, as identified in the HDSR report, around 80% of a person's health status is determined by factors outside healthcare services. The Pae Ora (Healthy Futures Bill) does not go far enough to enable the health sector to have any influence upon the social determinants of health. The Bill gives Health New Zealand and the Māori Health Authority the roles of collaborating with other social sector agencies to address social determinants of health, but provides no mandate for these entities to influence policy decisions in other sectors. Giving accountability for both health outcomes and collaborating with other social sector agencies only to health entities still leaves population health, disease prevention and health outcomes solely to the health sector. The health sector's remit has been illness prevention and illness treatment to date, a critical role that will remain and is fundamental to meeting the needs of people in Aotearoa New Zealand. Thought needs to be applied to how other sectors with more influence over population wellness can be involved and accountable for population health in the prevention of disease sense.

The CMC recommends that other social sector agencies also need to be accountable for collaborating with Health New Zealand, the Māori Health Authority and the Ministry of Health to tackle the social determinants of health. One way to achieve this would be via a 'health in all policies' approach, where the health impacts of policy and programme design must be assessed, across housing; employment; education; justice; trade; transport; climate change and the environment. The role of the Public Health Agency could be strengthened to give it a mandate to lead population health policy development across social sector agencies, and to conduct health impact assessments on policies from other government departments. It would need to be adequately resourced to take this role. The CMC also recommends the Committee consider if legislation elsewhere needs to be amended, to mandate the role of other government departments or agencies that impact on the broad determinants of health, to collaborate with health entities to build towards pae ora for all New Zealanders.

The CMC also notes that the Bill emphasises community participation in health improvement (section 13b) and planning and service delivery that meets the needs of whānau, hapū, iwi and Māori in general. It is likely that priorities that emerge from communities may centre more on social determinants of health (such as access to safe, affordable housing; good employment; healthy environments). To really enable community participation, there will need to be

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mechanisms enabled by legislation, for health entities to meaningfully influence social determinants in response to community need, and for other social sector agencies to be accountable for responding to health needs that have arisen from their policies.

2. Population health

The HDSR report set the vision that improved population health must become a driver of all planning within the system, and the Bill captures this intent in its purpose. However, it is not clear from the Bill how the system will be enabled to do this.

The explanatory note to the Bill has alluded to the role of the Director of Public Health being strengthened, and the Bill amends the Health Act 1956 to confer the functions of a Medical Officer of Health on the Director of Public Health, provided they are a medical practitioner specialising in public health. We support this change, but recommend the Bill is strengthened further to require the Director of Public Health to be a medical practitioner suitably qualified and experienced in public health medicine, as is required for all Medical Officers of Health.

As described above, the CMC recommends the role of the Public Health Agency should also be strengthened to support a public health approach, by mandating a lead role in health impact assessments across other sectors.

3. Te Tiriti and equitable health outcomes

The Bill needs to be strengthened in how it gives effect to Te Tiriti o Waitangi and how it discusses equitable health outcomes. The CMC strongly supports that achieving health equity is included under the purpose of the Act (section 3b). However, we note that equity can only be achieved by elimination rather than simply reduction of health disparities. Section 3b should therefore be amended to “achieve equity by eliminating health disparities among New Zealand’s population groups, in particular for Māori.”

The CMC also recommends that the Bill includes definitions for pae ora, equity and cultural safety. These terms are used throughout the Bill and are terms where there is likely significant variation in interpretation and understanding. Once defined, we recommend critical analysis of the Bill to determine whether it sufficiently enables the concepts described to be met. For example, Pae Ora in the Ministry’s He Korowai Oranga is described as a holistic concept with three interconnected elements of healthy individuals; healthy whānau; and healthy environments. The Bill is titled the Pae Ora (healthy futures) Bill but appears very limited in giving any mandate to influence healthy environments. Cultural safety is another incredibly important term. We note that the Medical Council of New Zealand published its definition of cultural safety (which may continue to evolve) in 2019. The CMC is currently collaborating with Te Ohu Rata o Aotearoa (the Māori Medical Practitioners Association) on a project to operationalise this definition in a medical training context.

Section 6 ‘Te Tiriti o Waitangi’ offers substantial improvement on the New Zealand Health and Disability Act 2000, with more detailed acknowledgement of how the Crown intends to give effect to the Principles of Te Tiriti. The CMC

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strongly supports clauses 6a-6i. However, it is noted that providing a specific list of how the Crown will give effect to Te Tiriti principles may also serve an exclusionary function and perversely limit how and when the Crown will give effect to Te Tiriti principles. We would argue that any list must be sufficient in breadth and overlap to guard against unintentionally limiting scope. Any list of how the Crown will give effect to the Principles of Te Tiriti o Waitangi should also include reference to all principles and articles in Te Tiriti and how they will be met.

We also note that Te Tiriti in the Bill is always referred to as "Te Tiriti o Waitangi (the Treaty of Waitangi)." Te Tiriti o Waitangi and the Treaty of Waitangi are two different documents, with different meanings. It should be made clear that in alignment with internationally accepted best practice of contra preferentem, Te Tiriti o Waitangi takes precedence.

The CMC strongly supports the principles set out in Section 7 'Health System Principles' that health entities must follow to support equitable health outcomes for Māori. However, the CMC is unsure why PHARMAC would be exempted from engaging with Māori to deliver services that reflect their needs and aspirations, and are designed to raise hauora Māori outcomes. We recommend that the Health System Principles also apply to Pharmac.

Part 2 of the Bill establishes Health New Zealand and the Māori Health Authority. Regarding Health New Zealand, the CMC is pleased to see that Te Tiriti o Waitangi and tikanga Māori is included as knowledge, expertise and experience the Board must have collectively. However, we note that healthy equity is not included in the objectives of Health New Zealand. Given that all entities are expected to support equitable health outcomes for Māori, and insofar as that expectation flows from Te Tiriti obligations, it reasonably follows that a clear objective is included under Health New Zealand's purpose. The approach taken in the legislation has been to have the overarching section 7 'Health System Principles' apply to all health entities. However, leaving health equity out of Health New Zealand's objectives runs the risk of the Māori Health Authority being viewed as the sole organisation responsible for improving Māori health outcomes. The CMC considers all health entities, including PHARMAC and the HQSC, should have equity referenced in their objectives or functions. This would make it clear that all entities have accountability for equitable health outcomes for Māori.

Finally, the CMC encourages the Pae Ora Legislation Committee to give weight to feedback from whānau, hapū and iwi, and from Māori organisations, when refining the legislation to give better effect to Te Tiriti principles and the pursuit of health equity. Meaningful engagement must be achieved, despite challenges presented by timing and the COVID-19 pandemic.

4. Workforce

The HDSR report identified the health and disability workforce as "the backbone of the system" and described it as "passionate, hard-working, highly skilled" and "often go[ing] above and beyond what is asked of them." The report also identified persistent shortages, a workforce under pressure, with high stress levels, that is facing significant supply challenges and is unsustainable. We contend that workforce development is a critical issue facing the successful

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delivery of Pae Ora and must be a focus of the New Zealand Health Plan and future Government Policy Statements (GPS).

Workforce development is not included in the functions of Health New Zealand, nor is it mentioned in relation to the New Zealand Health Plan. The legislation should clearly outline the roles and accountabilities of each health entity in relation to workforce planning. It must be clear which health entity is responsible for developing a workforce plan, and which health entities and groups should be consulted when developing the workforce plan. With Health New Zealand taking the role as the major employer of the health workforce, it is uniquely placed to collect comprehensive workforce data, that can be used for planning and modelling purposes. The legislation should therefore also specify the ability or requirement to share workforce data needed for strategic workforce planning (for example between Health New Zealand and the Ministry of Health).

We note that workforce planning is briefly mentioned as part of the New Zealand Health Strategy. The New Zealand Health Strategy seems the appropriate document for workforce matters in that it will take a longer-term view. However, we also note that workforce planning needs to occur urgently to meet the current pressure for skilled health workers in all professions. Most medical specialist workforces continue to experience shortages, particularly within regional areas. The medical workforce is aging and in 5-10 years a good proportion of the current workforce will be retired. It is not clear if the proposed Charter will assist in retaining or attracting workers into the sector.

The CMC notes that under the Public Health and Disability Act 2000, the Health Workforce Advisory Committee was established to provide advice to Ministers on workforce matters, supported by the Ministry of Health. The Health Workforce Advisory Board's Terms of Reference describes its role as strategic planning and development for the workforce, taking into account disease prevalence changes and models of care, based on the best available intelligence and data. As far as the CMC is aware, a comprehensive national workforce plan has never been developed. Also, had a plan been developed, it is unlikely the levers would have existed to enact such a plan. It is therefore essential that the role and accountability for workforce planning, and sharing the data required for workforce planning, is clear in the new legislation. It is also essential that the Pae Ora Legislation Committee consider what mandates or levers the agencies accountable for workforce planning and development will need, to ensure workforce plans can be delivered upon.

5. Governance for quality care

Sections 12 and 22 set out the mix of knowledge, experience and expertise the Minister must ensure is on the Board of Health New Zealand and the Board of the Māori Health Authority respectively. There needs to be an appropriate balance of skills, knowledge, experience and perspectives across the Board appointments to provide appropriate oversight for the entities. CMC notes that there is currently no explicit requirement for clinical expertise for the Board of Health New Zealand as per section 12(3). Clinical expertise should be included. Such a requirement would signal and strengthen the importance of clinical experience, expertise and leadership at the governance level, especially given Health New Zealand's role in the provision of quality services.

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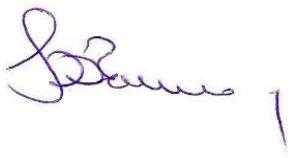
The consumer voice also needs to be considered in the Bill. The Bill does not stipulate a consumer voice on the Boards. It also does not stipulate in the functions of Health New Zealand and other entities that consultation will encompass the views of whānau, including consumers with lived experience of health conditions, and their views on ways to develop services and improve health and wellbeing outcomes. Accountability mechanisms could be introduced to ensure services are whānau centred in design, function and performance.

Thank you once again for the opportunity to comment on the Pae Ora (Healthy Futures) Bill. For any questions or further discussion on this submission, please contact Virginia Mills (Executive Director) in the first instance at virginia.mills@cmc.org.nz

Nāku noa, nā



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