Te Kaunihera o Ngā Kāreti Rata o Aotearoa
COUNCIL OF MEDICAL COLLEGES
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18 August 2025

Health Select Committee
Parliament Buildings
Wellington 6011

By email to: Health@parliament.govt.nz

Submission on the Healthy Futures (Pae Ora) Amendment Bill

Tēnā koe,

The Council of Medical Colleges | Te Kaunihera o Ngā Kāreti Rata o Aotearoa (CMC) is the collective voice for eighteen medical colleges in Aotearoa New Zealand. Medical colleges are not-for-profit educational bodies responsible for the training, examination and recertification of medical practitioners. Our member colleges provide support to over 9000 specialist medical practitioners working in a range of disciplines in the Aotearoa New Zealand health system. The Council of Medical Colleges informs and advise key health sector groups, including Ministers, government agencies, and other relevant bodies on health sector issues. The following represents the majority view of the colleges.

The Council of Medical Colleges (CMC) supports measures that strengthen Health New Zealand | Te Whatu Ora's governance, foster agency collaboration, and enhance financial transparency, particularly where they enable timely, high-quality care. However, this Bill in its current form undermines these goals. We cannot support legislative changes that, as drafted, would reduce equity obligations, silence frontline clinical voices, and diminish clinical expertise in decision-making.

This submission focuses on five key concerns:

- The addition of a clause that limits frontline clinicians from speaking out on patient safety and system performance
- The removal of provisions that protect equity for Māori and uphold Te Tiriti o Waitangi obligations
- The diminishing of iwi-Māori Partnership Boards
- The removal of requirements for a range of specific expertise on the Public Health Expert Advisory Committee; and
- Mandating of specific health targets in legislation.

1. **Limiting front-line Frontline Clinicians' Freedom to Speak**
   This analysis on clause 11 is superseded by the submission by the Medical Protection Society located at the end of this document.

Clause 11 inserts a new section 11A which puts all individuals working for Health New Zealand under the requirements of the Public Service Principles, which includes doctors, nurses and those delivering health care services in public settings.

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The new 11A(b)(i) adds the requirement of the principle of political neutrality on all individuals working for Health New Zealand. Under this principle of political neutrality, doctors who may need to speak out when patients and their care is at risk could be considered expressing a 'political opinion' while representing Health New Zealand as an employee. A 'breach' of the principle of political neutrality could lead to disciplinary action for doctors, creating a 'silencing' effect across the frontline from speaking out when patient care is being compromised.

New Zealanders rely on doctors, their most trusted profession[1] to speak out when patient care and safety is compromised. This is a long-standing social convention that acts as a guardrail to protect patients. Putting doctors and the frontline health workforce under the Public Service requirements undermines their ethical and professional obligations to patients, and ignores their rights to do so under their collective agreement.

As this Bill has not been out for consultation before it came to select committee, it is unclear if the Government sought advice on the implications for the professional ethics and standards on doctors. The medical profession's code of ethics states that the health and the wellbeing of the patient is their first priority[2]. Under the Medical Council of New Zealand's *Good Medical Practice* Standards, the standard around professionalism states for doctors that the "care of patients is your first concern"[3].

It is important to note that in the Code of Health and Disability Services Consumers' Rights[4], every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.

Due to the lack of consultation on this Bill before it was introduced, it is also unclear what the problem is that the Government is attempting to address with this clause. It would be reasonable and in line with the rest of public service to include individuals employed by Health New Zealand who work in the 'corporate' side of the agency under the Public Service Principles (if they are not already). Unfortunately, there is no information as to why the Government wants to extend this to frontline doctors and the wider health workforce in public settings.

We are deeply concerned that the current draft of the Bill ignores the ethical and professional framework that the workforce operates under, will deter doctors from speaking out when patient care and safety has been compromised, and will undermine patient safety if enacted.

2. Undermining Te Tiriti o Waitangi Obligations and equity for Māori

Te Tiriti o Waitangi is a foundational commitment that shapes the health system's responsibilities to Māori. The Pae Ora Act 2022 embedded mechanisms to give effect to Te Tiriti through structural reform, most notably through Te Aka Whai Ora and iwi-Māori Partnership Boards. These mechanisms recognised that equitable health outcomes require Māori-led, Māori-designed, and Māori-delivered solutions.

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[1] Ipsos Global Trustworthiness Index 2023

[2] NZMA: Code of Ethics for the New Zealand Medical Profession. Available at: https://ranzco.edu/wp-content/uploads/2018/11/nzma_code_of_ethics.pdf

[3] Good Medical Practice. Medical Council of New Zealand | Te Kaunihera Rata o Aotearoa, 1 November 2021. Available at: https://www.mcnz.org.nz/our-standards/current-standards/good-medical-practice-2/

[4] Code of Health and Disability Services Consumers' Rights. Available at: https://www.hdc.org.nz/your-rights/about-the-code/code-of-health-and-disability-services-consumers-rights/

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The proposed amendments substantially weaken these commitments. Reducing Health NZ's obligations to engage with and be accountable to Māori communities erodes the Crown's ability to actively protect Māori health interests and deliver on equity as a core Treaty principle[5] [6]. From a clinical perspective, the removal of these mechanisms risks further entrenching health inequities and undermines public trust in the health system's commitment to honour Te Tiriti.

The health data is unequivocal: Māori experience shorter life expectancy, higher rates of preventable disease, and reduced access to specialist care. Chronic conditions such as diabetes, cardiovascular disease, and stroke occur earlier and with greater severity in Māori populations compared to non-Māori[7] [8].

The Pae Ora Act 2022 recognised that addressing these inequities requires dedicated capability, capacity, and accountability within Health NZ. Clauses in this Bill, specifically clauses 16, 17, and 19, remove those equity-focused requirements, including building Health NZ's capacity to address Māori health inequities, accountability to local Māori communities for performance on equity, and engagement with iwi-Māori Partnership Boards in planning and performance monitoring.

These changes are not simply administrative. They remove the structural levers needed to ensure continuous advancement toward equity, with likely flow-on effects for other underserved populations. As medical specialists, we know that without equity measures that are specific, targeted and actively monitored, the existing gap in health outcomes for underserved communities will not only persist but continue to widen.

3. Reducing the Role of iwi-Māori Partnership Boards

Iwi-Māori Partnership Boards provide critical community-level insight into health needs and are an essential accountability mechanism for ensuring that services meet local priorities. Under the current Act, they hold the ability to monitor the health system's performance in addressing inequities, influence the development of strategies and plans, and ensure services are culturally and clinically responsive.

The Bill removes or weakens these functions. Without strong local voices feeding into system-level decision-making, there is a high risk of health strategies becoming detached from the realities of service delivery on the ground, particularly in rural and underserved Māori communities. From a medical workforce perspective, this also limits the ability to adapt services to community needs and deliver truly patient-centred care.

4. The removal of requirements for a range of specific expertise on the Public Health Expert Advisory Committee

This continues a concerning trend of removing relevant clinical expertise requirements for ministerial appointments across health system leadership bodies. The recent Medicines Amendment Bill proposed the

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[5] Te Puni Kōkiri. He Tirohanga o Kawa ki te Tiriti o Waitangi: A Guide to the Principles of the Treaty of Waitangi as Expressed by the Courts and the Waitangi Tribunal, 2001. Available at: https://www.tpk.govt.nz/documents/download/documents-179/He%20Tirohanga%20o%20Kawa%20k%C4%93%20te%20Tiriti%20o%20Waitangi.pdf

[6] Waitangi Tribunal, Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575), 2023. Available at: https://www.waitangitribunal.govt.nz/en/inquiries/kaupapa-inquiries/health-services-and-outcomes

[7] Ministry of Health. 2024. Health and Independence Report 2023 - Te Pūrongo mō te Hauora me te Tū Motuhake 2023. Wellington: Ministry of Health.

[8] Health Quality and Safety Commission. 2019. A window on the quality of Aotearoa New Zealand's health care 2019 – a view on Māori health equity. Wellington: Health Quality & Safety Commission.

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removal of clinical expertise criteria for the Medicines Classification Committee and the consultation on the Health Practitioners Competence Assurance Act 2003 review signalled moving to ministerial appointments on regulatory bodies without any mention of specific appointment criteria.

Patients and the wider New Zealand public, expect that people sitting on leadership bodies in health who are making decisions on their care and safety have relevant clinical expertise. For example, the Government of the day could appoint and end up with a Public Health Expert Advisory Committee with no public health experience (as it would be able to under the proposed clauses). The implications of this in terms of the quality of the advice to the Government and other agencies during a pandemic could have disastrous implications for New Zealanders safety.

5. **Mandating of specific health targets in legislation**

We oppose the mandating of targets in legislation without any prior consultation, and in particular setting specific targets in legislation. Specifying actual targets without consultation risks reducing the system's flexibility to respond to health needs. There has been no opportunity to discuss whether targets, and these specific targets in particular, are the most effective way to achieve better health outcomes for patients including any risks, liabilities or if it creates a perverse incentive to achieve the targets at the detriment of the wider system and patient safety.

Conclusion

The Council of Medical Colleges urges the Government to retain the equity, accountability, and partnership provisions of the Pae Ora Act 2022. Weakening these elements will not only contravene Te Tiriti obligations, but will also undermine the ability of the health system to deliver safe, equitable, and effective care for all New Zealanders.

We ask that the select committee does not recommend this Bill to the House, it diminishes the role of iwi-Māori Partnership Boards, removes Health NZ's equity obligations, and weakens requirements for clinical expertise in a key advisory body. Instead, we encourage legislative changes that strengthen collaboration, embed community voices, and uphold the system's commitment to equity as a core measure of health system performance.

Nāku noa, nā

Dr Samantha Murton

Chair
Council of Medical Colleges

18 August 2025

Dear members of the Health Committee

Healthy Futures (Pae Ora) Amendment Bill — Submission

1. Thank you for the opportunity to provide submissions on the Healthy Futures (Pae Ora) Amendment Bill (**Bill**). We act for the Medical Protection Society (**MPS**) and make this submission on its behalf.

2. The MPS is the professional indemnifier for over 85% of medical practitioners in New Zealand. A substantial number of MPS members are employees of or contractors to Health New Zealand (**HNZ**) and stand to be impacted by the changes proposed in the Bill. These submissions focus particularly on clause 11.

Clause 11 is unnecessary

3. Clause 11 proposes to 'clarify' that part 1, subparts 2 and 4 of the Public Service Act 2020 (**PS Act**) apply to HNZ, its employees, board members, the chief executive, contractors and secondees.

4. HNZ is a Crown agent.[1] Crown agents are already subject to subparts 2 and 4 of the PS Act.[2]

5. Those working within HNZ, be it in leadership or governance, or as employees, contractors or secondees, may be subject to minimum standards set by the Public Service Commissioner (pursuant to s 17 of the PS Act and following). Minimum standards and associated guidance have been promulgated that require HNZ and its people (including employees, contractors and secondees) to act in accordance with public service 'principles' and 'values' defined in subparts 2 and 4 of the PS Act, including the principle to act in a 'politically neutral' manner.[3]

6. An amendment to the Act is not required to 'clarify' a legal position that is accessible and settled.

7. Consistent with this, no explanation has been located to justify clause 11.[4] It is not required to advance the purpose of the Act,[5] nor the objective of the Bill to improve the effectiveness of health service delivery to patients,[6] where it proposes to reiterate law that already exists (albeit in a flawed way, addressed below).

Drafting concerns

8. The way clause 11 is drafted does not accurately reflect the requirements in subparts 2 and 4 of the PS Act.

[1] Pae Ora (Healthy Futures) Act 2022, s 11.
[2] Public Service Act 2020, s 10.
[3] Standards of Integrity and Conduct; Guidance: Understanding the Code of Conduct (October 2010); Guidance: Public Service Principles.
[4] Including in Hansard debates, or the Public Service Commission's disclosure statement and regulatory impact statement.
[5] Pae Ora (Healthy Futures) Act 2022, s 3.
[6] Healthy Futures (Pae Ora) Amendment Bill, explanatory note.

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9. The proposed s 11A suggests subparts 2 and 4 '*apply to*' HNZ's employees, contractors and secondees. In our submission, this is not correct.

   9.1 Subpart 2 imposes responsibilities on public service agencies, Crown agents, public service chief executives and boards of Crown agencies only.

   9.2 Subpart 4 provides for an ability for the Public Service Commissioner to set minimum standards of integrity and conduct. 'Standards of Integrity and Conduct'[7] (**the Code**) is one such standard.

   9.3 While the Code applies to public service workers (employees, contractors, secondees), the precise content of the Code and its particular scope is not prescribed by the PS Act. Its nature was at the discretion of the Commissioner.

10. The way s 11A is currently drafted creates a misleading impression that public service employees, contractors and secondees share the same responsibilities under the PS Act as executives within HNZ, which is not accurate. The provisions in the relevant subparts impose direct responsibilities on those in executive roles. The provisions do not identify specific requirements in respect of employees, contractors or secondees, as s 11A incorrectly states.

11. The way s 11A is drafted obscures the different scope and origin of responsibilities on those in HNZ. It creates a misleading impression as to obligations.

The 'silencing' impression

12. Finally and most significantly, seeking to 'clarify' the obligation explicitly about 'political neutrality' in the way that is proposed may have a chilling effect on medical practitioners speaking up about government action or policies that impact the health sector and patients.

13. In practice, the Code directive for public service workers to be 'politically neutral' is nuanced, particularly in the health space. Guidance issued by the Public Service Commission on the principle of political neutrality reflects that its relevance sits on a continuum. The principle will become 'more relevant' the closer a person is to Ministers, and policy and law-making. Medical practitioners' professional obligations and New Zealand Bill of Rights Act 1990 (**NZBORA**) have been identified as potentially conflicting factors. The guidance identifies that conflicts in obligations can be managed, in some circumstances.

14. The proposed piecemeal importation of 'some' of the aspects of subparts 2 and 4 of the PS Act, into s 11A, deprive those aspects of important context — such the as the explicit acknowledgement in the PS Act that NZBORA rights must be weighed in the balance.[8] This limited reference reinforces an impression of a strict obligation not to make critical comments of the government, that is not necessarily correct.

15. Medical practitioners within HNZ have the right to freedom of expression.[9] It may be unjustifiable to limit that right by virtue of who they work for alone. There must be consideration of the nature of their work, as against the nature of the particular 'political' comment/s before they can suffer consequences for breaching the Code.

16. Medical practitioners within HNZ are also subject to independent, ethical and professional obligations.[10] These relevantly include:

   16.1 The interests and safety of patients must always be their first concern.[11]

[7] Issued by the (then) State Services Commissioner under s 57 of the State Sector Act 1988. The Code continues to have effect under the Public Service Act.
[8] Public Service Act 2020, s 22(1).
[9] Public Service Act 2020, s 22(1).
[10] Other obligations will apply to HNZ workers of different specialities, i.e. psychologists.
[11] Medical Council of New Zealand *Responsibilities of doctors in management and governance* June 2021; Medical Council of New Zealand *Good Medical Practice* November 2021.

16.2 Practitioners must not allow the interests of their employer or funding agency, to override their ethical responsibility to patients.[12]

16.3 An obligation to protect and promote the health of patients and the public.[13]

16.4 An obligation to act as a steward of healthcare resources;[14] in an environment of resource limitation this could involve communicating prioritisation judgements.[15]

16.5 An obligation to maintain public trust in the profession.[16]

17. Responsible advocacy for patients and public health more broadly should not be conceptualised as not being 'politically neutral'. Such advocacy obligations derive from medical practitioners' independent registration, and clinical work and experience within a system that they are uniquely placed to understand. It is important that practitioners not feel constrained or 'at risk' in raising matters of concern, as they perceive them. Open disclosure and communication are critical to protect health consumers. If the freedom to speak is constrained — or perceived to be constrained — this could impact patient well-being, and undermine the aim of the Act and Bill to improve the health of all New Zealanders, thorough an effectively functioning health system. The free flow of information, critical or otherwise, must inform what improvements may be required and how they can best be implemented.

18. There are mechanisms already in place to encourage professional and responsible communication on public policy/'political' matters, that render the sweeping (and inaccurate) 'clarification' of obligations in s 11A unnecessary.

18.1 As addressed, medical practitioners within HNZ are already subject to the Code. Employment or contract consequences can proceed in the event the 'principles' and 'values' in the Code are considered not to have been met.

18.2 Medical practitioners are subject to professional obligations not to let personal beliefs, including political, religious and moral beliefs, affect advice issued.[17] They must conduct themselves honestly and professionally. Medical practitioners may face patient complaints and/or action from the New Zealand Medical Council if these obligations are not adhered to.

18.3 HNZ medical practitioners must comply with the Code of good faith for public health sector.[18] This Code:

(a) Recognises employees' right to comment publicly and engage in public debate on matters within their expertise and experience as employees.[19]

(b) Prescribes a process before such public comments are made, including the matter must be raised with the employer with reasonable time to respond.[20]

(c) Preserves the right to comment if the employer does not respond or that response is considered not satisfactory, provided the employee makes clear:

(i) they are speaking in a personal capacity; or

(ii) they are speaking on behalf of a union with its authority to do so.

19. As well as implications for patient safety and the effective improvement of the public health system, medical practitioners might choose not to work in or for HNZ if they considered themselves unable to

[12] Medical Council of New Zealand *Safe practice in an environment of resource limitation* September 2018.
[13] Medical Council of New Zealand *Good Medical Practice* November 2021.
[14] Medical Council of New Zealand *Safe practice in an environment of resource limitation* September 2018.
[15] At [8].
[16] Medical Council of New Zealand *Good Medical Practice* November 2021.
[17] At [20].
[18] Employment Relations Act 2000, schedule 1B.
[19] Clause 14.
[20] Clause 15.

fulfill their advocacy obligations to patients, or to be 'at risk' for doing so. This disincentive would certainly not serve the purposes of the Act and Bill to better resource the public health system, and make it more efficient.

Concluding comments

20. Clause 11 serves no logical purpose, from a legal perspective. The inaccurate and selective way s 11A is drafted prompts an inevitable impression that the provision is intended to stifle debate or comments critical of the government or government policy.

21. HNZ medical practitioners must be free to communicate concerns, including criticisms of public health decision making, without that being perceived as the misuse of public service neutrality. Speech of this nature was not what the 'political neutrality' principle was designed to prevent.[21]

22. Strict enforcement — or a perception of strict enforcement — could put HNZ practitioners in a position of conflict between their obligations to HNZ and their obligations to patients, their regulatory body, and the rights under the Public Sector Code of Good faith.

23. Section 11A should not be included in the Act.

Yours sincerely

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[21] See: Cabinet Manual 2023 "Ministers of the Crown and the Public Sector" Chapter 2 *Integrity and conduct throughout the public sector* at [3.75]: definition of 'political neutrality'.