

Briefing for decision

Future of workforce regulation: Overview and next steps

Date due to MO: 28 January 2025 **Action required by:** 13 February 2025

Security level: IN CONFIDENCE **Reference:** H2024059044

To: Hon Simeon Brown, Minister of Health

Consulted: N/A

Proactive release: This **title** is proposed by the Ministry of Health for proactive release:

Contact for telephone discussion

Name	Position	Telephone
Maree Roberts	Deputy Director General, Strategy, Policy and Legislation	s 9(2)(a)
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Minister's office to complete:

Noted

Seen

Needs change

Withdrawn

See Minister's Notes

Overtaken by events

Comment:

Briefing for decision

Future of workforce regulation: Overview and next steps

Security level: IN CONFIDENCE **Date:** 28 January 2025

To: Hon Simeon Brown, Minister of Health

Purpose of report

1. This briefing provides you with an overview of, and seeks your direction on, the health workforce regulation reform programme.

Summary

2. The Ministry has been undertaking a review of health workforce regulation, specifically the Health Practitioners Competence Assurance Act 2003.
3. The review has identified that the current regulatory system does not always support the ways in which health care needs to be delivered and that greater alignment between regulation and the needs of the health system will ensure that we are harnessing the skills of our entire health workforce.
4. Achieving the Government's health objectives cannot be done through legislation alone. However, there are opportunities to adjust regulatory settings to support the implementation of necessary changes in the health system.
5. At the end of 2024, we provided the previous Minister of Health a draft discussion document and Cabinet paper outlining broad legislative proposals for public consultation. s 9(2)(f)(iv)
6. We are seeking your direction on the need for public consultation on these proposals prior to Cabinet decisions. Public consultation will inform policy development and help identify problems and opportunities with the proposals before a new bill is drafted.
7. Including public consultation would mean Cabinet decisions can be sought s 9(2)(f)(iv) whereas no public consultation would allow Cabinet decisions to be sought in March.

Recommendations

We recommend you:

- a) **Note** that the Ministry has been undertaking a programme of work on legislative reform relating to workforce, including engagement and policy work over the course of 2024 **Noted**
- b) **Indicate** whether you would like to proceed with:
 - i) The previously planned process of seeking Cabinet agreement to publishing a policy discussion document and a one-month public and targeted engagement process, which would allow you to take proposals to Cabinet s 9(2)(f)(iv); or **Yes / No**

- ii) No public engagement, with the Ministry instead meeting with key stakeholders on technical matters only, which would allow you to take proposals to Cabinet in March **Yes / No**
- c) **Note** that an expectation has been set with stakeholders through the 2024 work that there will be a public consultation process for this reform, and that removing the public consultation step will likely result in a negative reaction from them **Noted**
- d) **Note** that the Ministry will brief you on policy matters for this work on 11 February **Noted**



Maree Roberts
Deputy Director-General
Strategy Policy and Legislation
Date: *28 January 2025*

Hon Simeon Brown
Minister of Health

Date:

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Context

8. You recently met with Ministry officials, who introduced you to the work programme to review health workforce regulatory settings. The previous Minister of Health had agreed to a public consultation on broad legislative proposals prior to Cabinet decisions.
9. This briefing seeks your direction on this process. You will receive a more detailed briefing on policy decisions on 11 February.

Process options

10. The next planned step was to release a discussion document on this work, beginning a one-month public consultation. The key choice for you is whether to proceed with public consultation. Continuing with the existing process would allow you to seek Cabinet policy decisions no earlier than s 9(2)(f)(iv)
11. If you do not wish to proceed with public consultation, the new process option outlined at **Annex One** would allow you to seek Cabinet policy decisions s 9(2)(f)(iv)
12. There are two key streams of work within this reform programme:
 - a. The **policy proposals** are the options for systemic change that were canvassed in the draft discussion document. The briefing we are preparing for you for 5 February will focus on these proposals.
 - b. The **technical amendments** (for example, improving protections for witnesses in complaints procedures) refer to the Ministry's business as usual ongoing conversations with key stakeholders, particularly the regulatory authorities, on the operation of the Health Practitioners Competence Assurance Act 2003.
13. The Ministry has had conversations with stakeholders on both streams of work outlined above over the course of 2024, the outputs of which are reflected in the work to date.
14. The existing process or the new process option involve different steps as follows. A more detailed comparison is provided at **Annex One**.

Existing process	New process option
Public consultation.	Ministry engagement with key stakeholders on technical amendments only.
Written submissions and targeted engagement over one month.	Meetings offered with each key stakeholder over two weeks.
Engagement based on discussion document approved by Cabinet.	Engagement based only on technical amendments. Update on the broader policy work would be provided following Cabinet approval of policy decisions on s 9(2)(f)(iv)

15. The existing process, including longer engagement, was designed to deliver a consultation process prior to Cabinet policy approvals that provides interested parties, and the public, the opportunity to understand and shape the proposed changes to health workforce regulation.
16. The key benefit of public consultation is that it will inform the options analysis and provides the opportunity to communicate the case for change, which is important to establish buy-in.
17. Removing public consultation from this process will expedite Cabinet decisions on policy proposals. However, it does increase the risk of the following:
 - a. There will likely be a strong negative reaction from key stakeholders (e.g. authorities, unions, and professional associations), particularly as there is already an expectation of public consultation, set through the work completed in 2024.
 - b. Limits opportunity to hear views of those stakeholders who will be unable to provide submissions at select committee (e.g. health workers employed by the government). We will still be able to engage with authorities on technical amendments prior to Cabinet decisions.
 - c. If unintended consequences are identified after Cabinet decisions, this could risk delays to introducing a bill.
 - d. Incorrect information regarding the proposals and misunderstanding of rationale. This can be mitigated through clear communication following Cabinet's decisions.
18. If you choose not to consult, there are other points in the process (for example, during select committee) where the public, and other stakeholders, can express their views.
19. Through engagement to date the authorities have been asking for more time to engage on the policy proposals due to the direct impact on them. Should you choose to proceed with the new process, we would only be able to update them after Cabinet policy decisions on s 9(2)(f)(iv).
20. Under any of the process options, we will keep you updated via your weekly report.

Background to the reform

The Health Practitioners Competence Assurance Act 2003

21. Much of the health workforce is regulated under the Health Practitioners Competence Assurance Act 2003 (the HPCA Act). Under this Act, 18 regulatory authorities, such as the Medical Council, are established to regulate certain health professions to ensure they are fit and competent to practice.
22. The principal purpose of this Act is "to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practise their professions." Under the HPCA Act, authorities are responsible for registering and issuing annual practising certificates to suitably qualified health professionals who meet competence, conduct, and fitness requirements.
23. In addition, each authority is required to set up a professional conduct committee to investigate complaints against individual health practitioners. The HPCA Act also

establishes a separate Health Practitioners Disciplinary Tribunal to hear and determine charges against practitioners.

24. Not all health professions are regulated under the Act, only those where it has been demonstrated that there is a risk of harm to the public from their professional practice.

The review of workforce regulation

25. The Ministry has been undertaking a review of health workforce regulation. This review was outlined in the Government Policy Statement on Health 2024-2027 (the GPS).
26. The initial phase of the review involved engagement with a wide range of health stakeholders to identify the key challenges present in the regulatory system that is limiting accessibility of quality health services.
27. Engagement with key stakeholders on this work programme, included the authorities, professional associations, Māori professional associations, Hauora Taiwhenua Rural Health Network, self-regulating professions, the Council of Medical Colleges, and unions.
28. Key themes from consultation included:
- a. Any changes to the regulatory system must not compromise patient safety
 - b. There are opportunities for greater collaboration across professional regulators
 - c. Professional identity and profession-specific expertise must be retained in the regulatory system
 - d. Regulatory decisions should align with health system priorities and direction.

Current regulation does not support delivering on the GPS

29. In some respects, health workforce regulation is working as intended. Current regulation has contributed to an environment where people in New Zealand can be assured that the registered health practitioners they see are qualified, and will provide safe and competent services.
30. However, the current regulatory system does not always support the ways in which health care needs to be delivered. Features of the current system that can make it harder to solve some of the key challenges facing our workforce include:
- a. A narrow view of safety, which focuses only on risk and not benefit, can limit workforce availability.
 - b. An approach to regulation that means licensing or nothing, leads to disproportionate regulation that reduces productivity.
 - c. Profession-focused regulation does not necessarily take account of wider health system needs and incentivises patch protection.
 - d. Profession-funded regulation that raises equity issues for smaller or less well-paid professions and leads to significantly variable performance and financial sustainability.
 - e. Minimal oversight of the regulatory system, both from the Government and the public, can reduce responsiveness to system needs.

Workforce regulation can support our health goals

31. We need our regulatory settings for the health workforce to reflect multi-disciplinary models of care, along with increased access to services and expanded workforce distribution. Regulation also needs to enable emerging professions (such as physician associates) to support traditional health professions like doctors and nurses.
32. In general, greater alignment between regulation and the needs of the health system will ensure that we are harnessing the skills of our entire health workforce.
33. The previous Minister of Health agreed to public consultation on policy proposals that are designed to shift the regulatory system in the following ways:
 - a. **Regulation that supports overall system goals**, we want to regulate the health workforce in a way that aligns with the Government's overall aims for the health system.
 - b. **Proportionate regulation**, we want to regulate to minimise the risk of harm to the public without unnecessarily restricting practitioners' scopes of practice or consumers' access to services.
 - c. **Sustainable regulation**, we want a regulatory system that performs efficiently and effectively, and that can keep up with changing models of care.
34. We acknowledge that achieving the Government's health objectives cannot be done through legislation alone. They require a systematic approach to developing the health workforce and can only be done in partnership with education agencies and providers, health regulators, health agencies and entities, employers, and local communities.
35. We will provide you with further detail on these policy proposals in advice on 5 February 2025. These proposals include options that provide for review and intervention powers to direct regulators and to intervene when regulators are not performing adequately.

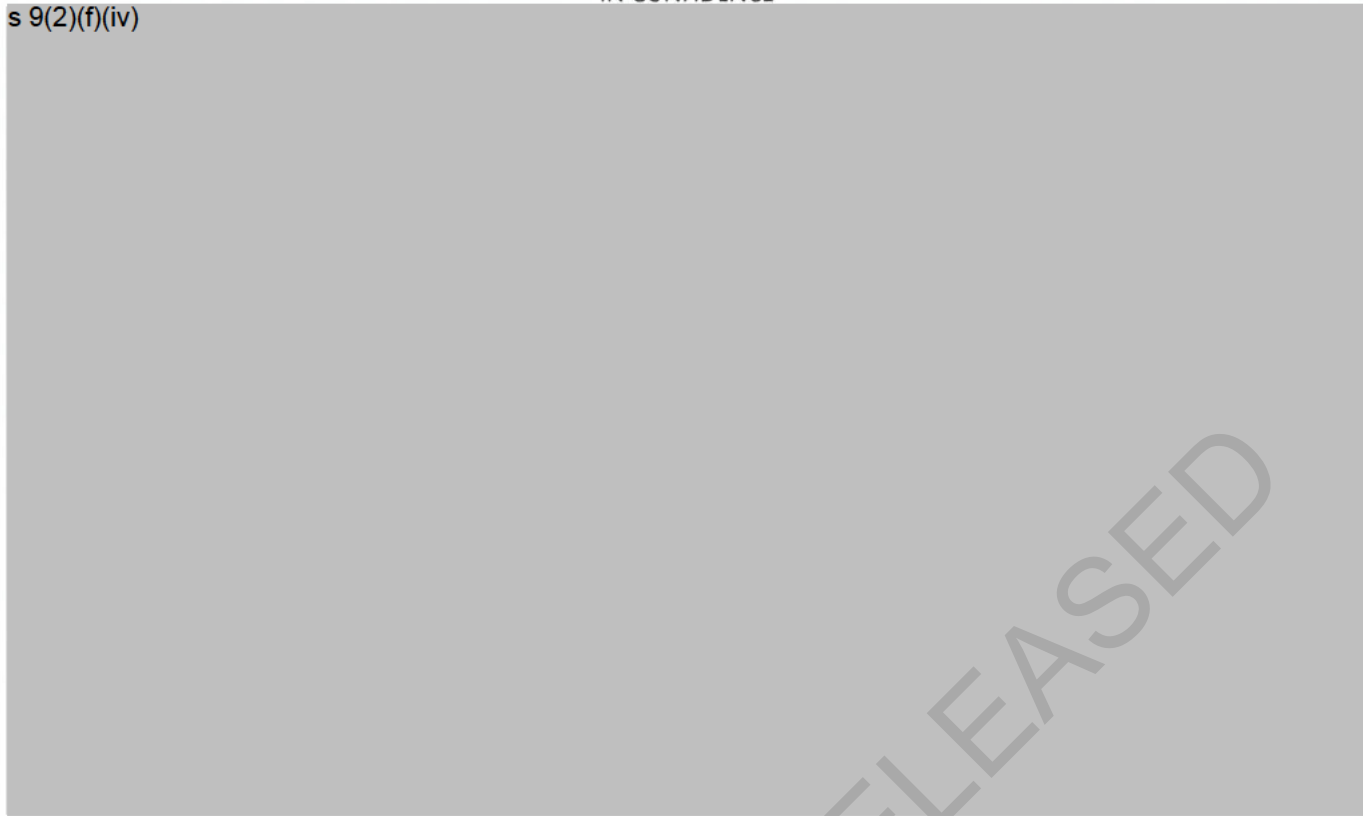
Next steps

36. Following your direction on the consultation process, we will progress next steps according to the annexed process.
37. If you wish to proceed with a revised process option, we will need to begin scheduling the meetings on technical amendments from **s 9(2)(f)(iv)**.
38. We will keep you updated on any relevant developments via your weekly report, including outcomes of engagements with key stakeholders.

s 9(2)(f)(iv)

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