Legislative Statement

Pae Ora (Healthy Futures) Bill

Second Reading

Presented to the House of Representatives in accordance with Standing Order 272

Introduction

1. The Pae Ora (Healthy Futures) Bill reforms the structure and accountability mechanisms of the publicly-funded health system by repealing and replacing the New Zealand Public Health and Disability Act 2000.

2. In effect, the Bill disestablishes the 20 district health boards and replaces them with a single national health system. The purpose of the reforms is to correct longstanding system inequities in the system in order to produce better health outcomes for all New Zealanders.

Te Tiriti o Waitangi

3. The Bill includes provisions intended to give effect to the Crown's obligations under the Treaty, such as the establishment of the Māori Health Authority, the Hauora Māori Advisory Committee, and recognition of iwi-Māori partnership boards. Those elements are set out in a descriptive provision.

4. The Pae Ora Legislation Committee recommended changes to the te Tiriti provisions to add further references to other parts of the Bill to better reflect the provisions giving effect to the Crown's te Tiriti obligations. The changes do not alter the approach to te Tiriti obligations in the Bill.

Health Sector Principles

5. The health sector principles are requirements for the health sector as a whole. Key actors in the system must be guided by these principles. The principles incorporate the concepts of te Tiriti principles discussed by the Waitangi Tribunal, as well as wider concepts about equity and health promotion.

6. As introduced, Pharmac was exempt from certain of the principles and the Minister was not covered by them. The Committee recommended the principles also apply to the Minister of Health and to Pharmac in full.

7. The Committee also recommended additional wording to the principles relating to the choice of quality services and the protection and promotion of health. Recommendations for the choice of quality services are:

    a. resourcing "services to meet the needs and aspirations of iwi, hapū, whānau, and Māori" services;

b. “developing and maintaining a health workforce that is representative of the community it serves”;

c. harnessing clinical leadership innovation, technology “and lived experience” to continually improve services, “access to services, and health outcomes”; and

d. providing services that are tailored to a person’s “mental and physical needs and their” circumstances and preferences.

8. Recommendations for the protection and promotion of health are:

a. “collaborating with agencies and organisations to address the wider determinants of health”; and

b. “undertaking promotional and preventative measures to address the wider determinants of health, including climate change, that adversely affect people’s health”.

Health System Structure

9. The Bill reforms the structure of the health system, including establishing new entities, updating the roles of existing health system entities, and forming new monitoring and accountability arrangements.

10. The Bill disestablishes district health boards and the Health Promotion Agency. Their assets, liabilities, contracts and employees will transfer to Health New Zealand. All transferring employees will retain their existing terms and conditions of employment on transfer, including arrangements that had been specific to particular district health boards.

Health New Zealand

11. Health New Zealand will be a Crown agent in the terms of the Crown Entities Act 2004. It will lead system operations, planning, commissioning, and delivery of health services, in partnership with the Māori Health Authority. This will include owning and operating public hospitals, specialist and community services, as well as commissioning primary and community health services at national, regional and local levels. It will be responsible for monitoring the delivery and performance of services.

12. The Committee recommended the addition of the following functions:

a. “undertake health workforce planning”;

b. “collaborate with other relevant entities to improve the capability and capacity of the health workforce”;

c. “collaborate with agencies, organisations, and individuals to improve the health and wellbeing outcomes and to address the wider determinants of health outcomes”; and

d. “undertake and support research relating to health”.

Māori Health Authority

13. The Bill establishes the Māori Health Authority to drive improvement in hauora Māori. The Authority will be a statutory entity governed by a board. While it will not be a Crown Entity within the meaning of the Crown Entities Act, it will be subject to parts of that Act to ensure accountability to the Crown for the expenditure of public money. This includes retaining the powers for the Minister to require information, review operations and direct the entity to give effect to government policy for the purposes of improving equity of access and outcomes for Māori.

14. It will work with Health New Zealand to commission and plan services, commission kaupapa Māori services and monitor the performance of the system for Māori. The Authority will work with the Ministry of Health to prepare national strategies and advise the Minister.

15. The Authority will also have accountabilities to Māori, and will be required to consult Māori and report back to them periodically. The Bill also requires the Minister to establish a Hauora Māori Advisory Committee to advise on the use of ministerial powers in relation to the Māori Health Authority.

16. The Pae Ora Legislation Committee recommended changes to the functions to more closely match those of Health New Zealand, while keeping the distinct character of the Māori Health Authority – in particular, the Authority has a policy role that Health New Zealand does not.

Iwi-Māori partnership boards

17. Iwi-Māori partnership boards already exist as part of the health system, but the Bill formally recognises them in statute for the first time. It provides for a clear purpose to represent local Māori perspectives on the needs and aspirations of Māori, how the health system is performing on these, and the design and delivery health services within a locality.

18. When the Bill was introduced, the interim Māori Health Authority was leading a process of engagement to advise on specific functions and powers the partnership boards should have, and how they should be constituted and changes are anticipated during the passage of the legislation. Following that process, the Committee recommended a list of functions for the boards to perform, most significantly the power to agree (or not) locality plans, and the consequential application of the disputes procedure to disputes involving iwi-Māori partnership boards.

19. The Committee also made extensive recommended changes to the procedure for recognising the boards. These allow for a Māori-led, tikanga-based approach, while ensuring that the Crown fulfils its obligation to actively protect all Māori, whether iwi-affiliated or not. It does this by requiring that boards have taken reasonable steps to

engage with all Māori in their area, and can maintain the capability to engage with, represent and be accountable to all Maori in their area. The Māori Health Authority will assess whether a board is able to fulfil its purpose and advise the Minister accordingly.

Hauora Māori Advisory Committee

20. As introduced, the Bill established a Hauora Māori Advisory Committee that would provide advice to the Minister on various matters regarding the Māori Health Authority. The Pae Ora Legislation Committee recommends significant changes to the provisions. The Minister will be required to consult the Hauora Māori Advisory Committee about a range of Ministerial powers, including appointments to the Māori Health Authority. When the Minister has not agreed with the Advisory Committee's advice, the public notification of the exercise of the power (for example the Gazette notice appointing members to the Board) must include a statement to that effect.

21. Appointments to the Advisory Committee will be made by consensus by the iwi-Māori partnership boards (six members) and by Māori organisations with national insight into the needs and aspirations of Māori and particular groups of Māori (two members). The Minister must consult the Minister for Māori Development in determining organisations for the purpose of appointments to the Advisory Committee.

22. The Select Committee has recommended the Bill provide for the Minister to appoint an interim Hauora Māori Advisory Committee for two years while processes to recognise iwi-Māori partnership boards and Māori organisations are undertaken.

Public health

23. The Ministry of Health will continue to act as chief steward of the health system with a focus on strategy, policy, regulation and monitoring. A new Public Health Agency will be established as a business unit within the Ministry of Health to provide system leadership for public health and advise the Director-General on public health matters. The role of the Director of Public Health as a system leader is strengthened via amendments to the Health Act 1956. The Bill also requires the Minister to establish an expert advisory committee to provide independent advice on issues relating to public health.

Strategic, accountability and monitoring documents

24. As introduced, the Bill provided a framework of new strategic, accountability, and monitoring documents which were:

    a. The Government Policy Statement on Health, which sets out the government's overall direction, priorities, and objectives for the health system. It must be issued by the Minister at intervals of no more than 3 years;

    b. National health strategies – the New Zealand Health Strategy will provide a framework for the overall 5–10 year direction of the health sector and must be prepared and determined by the Minister. The Minister must also determine Hauora Māori, Pacific Health and Disabled Health strategies that include specific

consideration of outcomes and performance for Māori, Pacific and disabled peoples;

c. The New Zealand Health Plan, a three-year costed plan, which will set the operational direction for the system and is to be jointly prepared by Health New Zealand and the Māori Health Authority and approved by the Minister;

d. Locality plans, to set priorities at the local level and are to be jointly agreed by Health New Zealand and the Māori Health Authority;

e. The New Zealand Health Charter, to provide common values, principles, and behaviours for organisations and workers in the health system; and

f. A Code of Consumer Participation, to support consumer participation and enable the consumer voice to be heard.

25. It also provided for temporary continuation of the existing New Zealand Disability Strategy.

26. The Committee recommended that within national health strategies, a Women's Health Strategy was to be added and that the Ministry of Health and the Māori Health Authority should jointly prepare the Hauora Māori Strategy (as opposed to just the Ministry). It is important to be clear that, while the the strategies listed in the Bill have particular legal existence, there is nothing to prevent the development of other targeted strategies. The Committee also recommended audit requirements for the New Zealand Health Plan and reports against it, along with an express requirement to specify measurable outcomes, including culturally relevant outcomes.

27. The Committee made extensive recommendations to amend the New Zealand Health Charter provisions in order to make it a sector-led document that would cover all health system workers both public and private. It recommended the Charter will reflect a set of values and principles for the health workforce, agreed by the workforce. Health New Zealand and the Māori Health Authority will be required to facilitate the development of the Charter and will be required to report on its implementation and recommendations for improvement, at least once every five years.

28. The Committee also recommended the Code of Consumer Participation as named at introduction be made more generic to avoid potential confusion with other instruments such as the Code of Health and Disability Consumers' Rights. The Committee also recommended an additional requirement for health entities to report annually on how they have given effect to the code.

Localities

29. The Bill requires Health New Zealand to establish localities for the purpose of commissioning primary and community health services and engaging with communities at the appropriate level. Decisions relating to the planning and commissioning of services are required to be made jointly with the Māori Health Authority.

30. The Committee recommended a requirement be added that Health New Zealand and the Māori Health Authority consult relevant local authorities and iwi-Māori partnership boards when determining localities. Recommended changes also clarify requirements for making and reporting against locality plans, which will be an important mechanism for accountability at the local-level.

Continuation of some existing statutory provisions

31. Part three of the Bill continues Pharmac, the New Zealand Blood and Organ Service, and the Health Quality and Safety Commission. They will continue to exercise their current functions, subject to the accountability and monitoring requirements in the Bill, and minor amendments to reflect a stronger role for HQSC in supporting consumer engagement.

32. Part four of the Bill continues provisions relating to ministerial committees, commissioning powers, and general administrative requirements that apply to health entities.

33. The Schedules set out transitional, savings and related provisions. This includes the transfer of district health board assets and liabilities, amending the Health Act 1956 to establish the Public Health Agency, and replicating relevant schedules of the New Zealand Public Health and Disability Act 2000.

34. Changes have been recommended to the transfer provisions to ensure they meet the policy intent of transferring employees retaining their existing terms and conditions unchanged.