ASMS
ASSOCIATION OF SALARIED MEDICAL SPECIALISTS
TOI MATA HAUORA

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Tēnā koe Steve,

Re: Toi Mata Hauora ASMS submission on Regulating the Physician Associate Profession under the HPCA Act 2003

Thank you for the opportunity to provide feedback on the Ministry's proposal to regulate the Physician Associate profession under the Health Practitioners Competence Assurance Act 2003.

Toi Mata Hauora (the Association of Salaried Medical Specialists (ASMS)) is the union and professional association of salaried senior doctors and dentists. We were formed in April 1989 to advocate and promote the industrial and professional interests of our members, most of whom are employed by Te Whatu Ora as medical and dental specialists, including physicians, surgeons, anaesthetists, psychiatrists, oncologists, radiologists, pathologists and paediatricians. We have over 6,000 members.

Toi Mata Hauora ASMS has a strong interest in ensuring Aotearoa New Zealand has a safe, high quality, sustainable health workforce that can meet the needs of the population. The current consultation is relevant to that aim.

At this stage, Toi Mata Hauora ASMS considers it would be premature to regulate Physician Associates in New Zealand, and that the benefits to the public do not outweigh the negative impact of regulation. However, Toi Mata Hauora ASMS considers it is critical to begin a conversation about the best way to protect the safety of the public when interacting with Physician Associates in Aotearoa New Zealand. Toi Mata Hauora also considers it critical to begin a broader discussion about the place of Physician Associates in the health workforce and inadvertent consequences likely to occur if regulating a new profession is pursued as a method of filling workforce shortages.

This submission answers the Ministry's prescribed consultation questions, and also highlights critical issues that are absent from the Ministry's consultation document. These issues include:

1. Concern over the approach to consultation.
2. Continued lack of strategic approach to Aotearoa's health workforce.
3. Consequential impact on the workforce pipeline of the foundational health professions in Aotearoa.

4. Cost saving
5. Agreement on scope, qualifications, and standards for the Physician Associate profession.

1. Concern over the approach to consultation

The Ministry of Health has taken a targeted approach to consultation, and it is unclear how organisations were selected to be part of the consultation process. The document states it is not for wider distribution, and that unsolicited submissions will not be accepted. The purpose for having a targeted / limited consultation is also unclear. This approach to consultation creates a high risk that organisations with a legitimate interest will be prevented from engaging and runs the risk of bias.

Under section 116 of the HPCA Act 2003, consultation is needed with "any organisation that, in the Minister's opinion, has an interest in the recommendation." In our view, interested organisations will include all those involved in training, supporting and regulating the nursing, allied health and medical professions. It is not clear whether these groups have been included in the consultation.

Furthermore, on December 8 2023 the Ministry made available the Expert Panel's Assessment of the Physician Associate profession's application for regulation. The assessment lacks any depth of analysis and provides no insight into what process the Panel used, or what evidence it examined and assessed to draw its conclusions. The assessment itself looks like a check box activity, rather than a considered approach assessing a critical question for Aotearoa's workforce and the health and safety of the public.

The Expert Panel's assessment also notes there is unanimous agreement on qualifications, standards and competencies – yet no such qualification, standards and competencies fit for the Aotearoa New Zealand context have been provided. The Expert Panel report also states Physician Associates are limited by their current supervision arrangements, suggesting that regulation may reduce the need for Physician Associates to be supervised. The Panel's assessment offers no analysis of health and safety implications if supervision were reduced, and no indication of agreement among the profession on what an appropriate level of safe supervision would be.

2. Lack of strategic approach to Aotearoa's Health Workforce

Toi Mata Hauora ASMS considers it unusual that the Ministry would pursue regulation of a workforce of 33 Physician Associates, with no local training programme in Aotearoa New Zealand. A strategic discussion about the role of Physician Associates in New Zealand is needed. Toi Mata Hauora is concerned about the limited nature of the scope and consultation questions in the Ministry's consultation document. There is no strategic analysis or questioning in the document about the place of Physician Associates in the broader Aotearoa health workforce, and the impact on the supervision and training of other health practitioners.

It is not clear what role Physician Associates would provide that isn't already covered by an existing, already regulated health workforce, with locally available training programmes. Before regulation occurs, it should be considered whether the Physician Associate profession offers something particularly unique to the Aotearoa health workforce, or whether workforce shortages could be filled by adequately resourcing the training of existing, established professional groups such as medical practitioners, nurse prescribers and nurse practitioners.

Recently, Te Whatu Ora released its Health Workforce Plan 2023/2024 (Te Whatu Ora, 2023). The plan highlights a need for a coherent national approach to health workforce issues, and includes action areas of:

- growing pathways for Māori and Pacific Peoples in health;
- driving local-led innovation in training; and
- bolstering priority workforce groups including increasing training numbers in foundational professions such as medicine and nursing.

Importing an internationally trained workforce that doesn't have a training programme in Aotearoa runs counter to each of these action areas.

We are aware that Aotearoa's nursing schools have capacity and are keen to increase the number of locally trained nurse practitioners but require government funding to do so. About 70-90 nurse practitioners are trained in Aotearoa annually, with capacity to increase this number. (New Zealand Doctor, 2022). By comparison, there are only 33 Physician Associates in Aotearoa in total, with no training programme available locally. From a strategic workforce perspective, it would be more efficient and appropriate to boost numbers of locally trained, already regulated professional groups to fill workforce gaps.

It has been noted by some of our members that Physician Associates could potentially play a useful role in the Aotearoa health workforce, for example if able to reduce the administrative workload that House Officers or Resident Medical Officers often carry, then freeing them up to gain training and specialisation exposure. Exploring and articulating what role the Physician Associate workforce may most efficiently provide within the broader health workforce is a necessary step **before** regulation.

We note that a 'demonstration' of the Physician Associate model has been run in Aotearoa New Zealand previously, at Counties Manukau DHB and in primary care, ED and rural settings in Gore, Tokoroa, Hamilton and Huntly to assess the potential contribution of the Physician Associate role to the health workforce. Evaluations of the 'demonstration' were completed, although they were criticised as inadequate by key sector groups at the time. (Synergia Limited. , 2015) (New Zealand Nurses Organisation, 2012). The evaluation concluded that the value of the Physician Associate role to the New Zealand health workforce would need to be reviewed with the sector, including "strategies to address any potential negative impacts on other parts of the health workforce." (Synergia Limited. , 2015) The demonstration, evaluation, and its recommendations are not acknowledged in the Ministry's current consultation.

3. Impact on the medical and nursing workforce pipelines

Toi Mata Hauora ASMS believes the intent of regulating the Physician Associate profession is in part public safety, but largely to facilitate access to a professional group that may be able to alleviate workforce pressures in some areas. The consultation document states that a New Zealand-based training programme is more likely to be developed if the profession is regulated under the HPCA Act. It appears that the intent is to increase the number of Physician Associates practicing in Aotearoa New Zealand to plug workforce gaps particularly in the general practice/primary care space, and in smaller regional and rural centres.

However, increasing the number of Physician Associates practicing in Aotearoa New Zealand is likely to exacerbate bottlenecks in training for nurse prescribers, nurse practitioners, and Resident Medical Officers (RMOs) in vocational training programmes. The role and scope of practice of a Physician Associate is dependent on being supervised by a medical practitioner, meaning as numbers of Physician Associates increase so will the supervisory burden on medical practitioners. This will diminish capacity for supervising the training of nurse practitioners, nurse prescribers and RMOs. Increased numbers of Physician Associates will also likely mean decreased access to the teaching lists and specialty lists that RMOs in vocational training require to meet volume of practice and complete training. Toi Mata Hauora ASMS members who have trained and worked in systems with Physician Associates have experienced these problems. Negative impacts on training (such as lack of access to case numbers) have also been noted in a UK-based survey published this year, that looked at the impact of anaesthesia assistants (previously known as physician assistants to the anaesthetist) on anaesthetists in training (Evans B, 2023). In November, members of the Royal College of Anaesthetists in England voted in favour of pausing recruitment of anaesthesia associates until the impact on doctors in training has been assessed (Wilkinson, 2023).

Unless there is a way to increase supervisory capacity, the impact of introducing a new professional group and training programme may reduce capacity for training existing professional groups and will likely fragment, rather than bolster the workforce. Toi Mata Hauora ASMS strongly encourages the Ministry of Health to consult fully with universities, medical colleges and nursing organisations to determine what impact regulating and promoting a new professional group may have on the workforce pipelines for our foundational professions. Without full and thorough consultation with education providers about the impact on other health workforce pipelines, Aotearoa New Zealand runs the risk of replicating similar tensions that are playing out in the United Kingdom.

4. Cost saving

As discussed, strategic workforce discussion about increasing the number of Physician Associates in Aotearoa New Zealand is missing from the consultation document. However, Toi Mata Hauora ASMS assumes another reason the Ministry is proposing regulation is perceived and anticipated cost savings. Toi Mata Hauora notes that savings are not a given with an increased Physician Associate workforce, as there will be a significant increase in SMO supervision requirements. Also, Physician Associates do not have the training or skill level required of medical practitioners. This will increase risk where Physician Associates provide patient care, and in turn increase the need for SMO supervision and intervention. If cost savings is a driver for the Ministry in pursuing regulation, Toi Mata Hauora urges the Ministry to consider carefully whether savings would be realised, and at what risk to patients.

5. Agreement on scope and qualifications

It is not clear what the scope of practice, qualifications, or accreditation and certification standards will be for Physician Associates in Aotearoa New Zealand.

Under section 116 (b) of the HPCA Act 2003, there needs to be general agreement among providers of the health services concerned as to:

- the qualifications for any class or classes of providers of those health services; and
- the standards that any class or classes of providers of those health services are expected to meet; and
- the competencies for scopes of practice for those health services.

The addendum provided by the Ministry of Health suggests Physician Associates have agreed that qualifications, standards of practice and competencies from three different international jurisdictions (Canada, the United States of America, and the United Kingdom) are suitable. However, there is significant variance both within and between these jurisdictions when it comes to scope of practice and standards (for example, all have a different approach to prescribing rights). We are aware that within the United Kingdom, it has been agreed more clarity on the scope of practice and supervision requirements for Physician Associates is needed. (Royal College of Physicians, 2023) Within the United States of America, there are over 200 Physician Associate training programmes, and variation in scope of practice across different states. The significant variation in the listed jurisdictions suggests that agreement on scope and qualifications in the Aotearoa New Zealand context is non-existent.

The New Zealand Physician Associates' website notes there is no current training programme in New Zealand, but that Australia and New Zealand have formed a Physician Associate Standards Council to develop accreditation and certification standards for future programmes. Toi Mata Hauora ASMS considers it premature to regulate the Physician Associate profession when no local qualification, training programme, standards for practice or competencies exist. Visibility of governance arrangements and standards development is an essential component to inform a decision on the regulation of Physician Associates, and much of this work should be completed prior to regulation being considered.

Furthermore, the scope of practice for Physician Associates is dependent on or related to the scope of their supervising medical practitioner. Providing supervision to Physician Associates will impact on the responsibilities and supervisory workload of medical practitioners. However, the consultation document is silent on any preexisting broad agreement on the scope of practice for Physician Associates between the New Zealand Physician Associate Society, medical colleges in Aotearoa New Zealand, and the Medical Council of New Zealand. Given the small numbers of Physician Associates currently working in Aotearoa, we are of the view that no such understanding is in place. Further, the scope of practice for Physician Associates will likely overlap with nurse prescribers and nurse practitioners, so broad agreement must also be developed with the New Zealand Nurses Organisation and the Nursing Council of New Zealand.

In our view, to comply with section 116 (b) of the HPCA Act 2003, the scope, qualifications and standards Physician Associates need to meet should be developed and consulted on to obtain broad agreement, prior to regulation. We note that when paramedic services were regulated in New Zealand, there were almost 1, 400 individuals working as paramedics, and agreement on qualifications and standards had already been established. We are unaware of any other health profession in Aotearoa becoming regulated before a local training programme exists.

Further comment on qualifications, standards and competencies is provided below in response to the Ministry's consultation questions.

Toi Mata Hauora ASMS response to the Ministry's consultation questions.

1. **Do you agree that the Physician Associate profession provides a health service as defined under the HPCA Act, and poses a risk of harm to the health and safety of the public?**

Yes, Toi Mata Hauora ASMS agrees that Physician Associates provide a health service as defined under the HPCA Act and pose a risk of harm to the health and safety of the public through performing the tasks described in the consultation document – assessment, ordering tests, diagnosis, treatment planning and conducting invasive procedures. Having supervision from a designated medical practitioner is a critical mechanism for reducing this risk of harm.

Although Toi Mata Hauora agrees there is risk of harm, we note that the small size of the Physician Associate profession (33 individuals) limits risk of harm to the health and safety of the public. Rapid expansion of the Physician Associate profession would increase the risk of harm to the public, as would loosening or removing requirements for Physician Associates to be supervised by a designated medical practitioner.

2. **Do you agree with the Ministry's assessment of the nature and severity of the risk of harm posed by the PA profession? If not, please provide comment.**

Yes, Toi Mata Hauora ASMS agrees with the Ministry's assessment of the nature and severity of the risk of harm posed by Physician Associates. However, there are additional risks of harm from the Physician Associate role not acknowledged in the consultation document, in particular:

- **Informed consent**: There is risk that members of the public will mistake Physician Associates for Doctors, as they act in a similar capacity and have 'Physician' in their title. The risk of Physician Associates being mistaken for doctors will have implications for informed consent for patients when making decisions about their own healthcare – it must be clear to patients that Physician Associates do not have anywhere near the depth of training or experience as medical practitioners do. If this is not clear to patients, it will cause patient harm and informed consent issues under the Code of Health and Disability Consumers' Rights. A recent case in the United Kingdom highlights this. Inadequate care was provided to a patient by a Physician Associate with a lack of oversight from a medical practitioner. This resulted in the preventable death of the patient. At no time was the patient made aware that she was seeing a Physician Associate, rather than a fully qualified General Practitioner. (UK Parliament , 2023) (Royal College of Physicians, 2023) The British Medical Association has recently called for a halt on recruitment of Physician Associates and Anaesthesia Associates in the United Kingdom, citing concerns about harm to patients who did not understand they were not seeing a doctor, and subsequently received inadequate care. (British Medical Association, 2023)
- **Cultural safety**: There is no Physician Associate training programme in Aotearoa New Zealand, meaning the workforce is entirely imported. Reliance on an internationally trained workforce risks culturally unsafe care for patients, due to a lack of understanding of the Aotearoa New Zealand context, hauora Māori, and Te Tiriti o Waitangi. To ensure equitable health outcomes, the workforce in Aotearoa New Zealand needs to reflect the diversity of the communities it serves. The risk of culturally unsafe care is likely to be exacerbated if an

imported Physician Associate workforce is used to plug gaps in hard to staff, underserved locations.

- **Adequate supervision:** As described above, the increased supervisory workload for medical practitioners will exacerbate bottlenecks in training pathways for RMOs, nurse practitioners and nurse prescribers. The increased supervisory workload may also create risks for patient safety. The medical workforce is severely short staffed, creating risks that inadequate supervision may occur. This risk was highlighted by the UK case referenced above, where pressures on staff contributed to inadequate supervision. (UK Parliament , 2023)
- **Inappropriate substitution or blurring of roles**: Currently, there is significant concern among Medical Practitioners in the United Kingdom that a rapid increase in Physician Associates combined with a lack of clarity in the roles and responsibilities of this workforce is causing patient harm due to inadequate care being provided. (British Medical Association, 2023)

3. Do you consider that under the Ministry's guidelines, it is in the public interest to regulate the PA profession under the HPCA Act?

No, Toi Mata Hauora ASMS does not consider it is in the public interest to regulate Physician Associates at this stage. This is due to the concerns outlined above, including negative impacts on the training pipelines of other health practitioner groups; cultural safety; the risk of Physician Associates being mistaken for doctors by the general public; and lack of clarity and agreement on scope of practice, standards, and competencies. Regulating the profession is likely to encourage an increase in the Physician Associate workforce in New Zealand, so these issues must be examined, and risks mitigated in a considered manner prior to regulation.

The Ministry's consultation document also suggests that Physician Associates are restricted by current supervision requirements and regulation would remove this restriction. If the Ministry is proposing that Physician Associates would no longer have supervision requirements and instead would practice independently, then risk to public health and safety would increase with regulation, rather than decrease. We note that In New Zealand, RMOs are required to work under the supervision of a vocationally registered medical practitioner. It would be concerning from a public health and safety perspective if Physician Associates were subject to less supervision than more highly qualified medical practitioners.

To be able to assess whether regulation is in the public interest, it needs to be made clear what supervision requirements for Physician Associates are currently, and what they would change to post-regulation. The scope of practice, standards, and roles and responsibilities of Physician Associates in the New Zealand health system would also need to be made clear and developed and evaluated in a systematic way in consultation with the broader sector.

4. Do you consider that the existing mechanisms regulating the PA profession are effectively and adequately addressing the risks of harm of PA's practice?

Physician Associates currently working in Aotearoa are employed directly in general practice environments, including in for-profit and not-for-profit primary care providers. The quality and rigour of existing supervision arrangements, professional development and continuing education undertaken by Physician Associates is not established formally, and therefore is not available for review. Without visibility of these aspects of professional standards, it is not possible to comment on the efficacy of these mechanisms.

Irrespective of whether Physician Associates become regulated under the Act or not, Toi Mata Hauora considers that adequate and effective supervision by medical practitioners must remain a cornerstone of reducing risk of harm to the public.

5. Could the existing regulatory mechanisms regulating the PA profession be strengthened without regulating the PA profession under the HPCA Act?

If regulation under the HPCA Act is not pursued at this stage, existing measures could be strengthened to protect public health and safety. These measures include:

- Continued supervision of Physician Associates by medical practitioners.
- Enforcement action under section 9 of the Health Practitioners Competence Assurance Act if an individual Physician Associate performs activities restricted to particular health practitioners.
- Accountability for Physician Associates under the Health and Disability Commissioner's Code of Health and Disability Services Consumers' Rights.

6. Are there other regulatory mechanisms, short of regulation under the HPCA Act, that could be established to minimise the risks of harm of the PA profession.

In addition to strengthening existing mechanisms, Te Whatu Ora could establish a national credentialling standard for Physician Associates and maintain the register of Physician Associates and their qualifications.

7. Do you agree that regulation under the HPCA Act is possible for the PA profession?

Regulation of health practitioners under the HPCA Act is usually funded by members of that profession through practicing certificate fees. It will take substantial resource to regulate a new profession, and this will need to be funded from a very small number of Physician Associates currently working in Aotearoa New Zealand. Also, there is variability in scopes internationally, which will lead to complexity in regulation for a small group of practitioners. It is likely funding and complexity issues will create challenges to regulation, and it appears as though funding for regulation will be reliant on a significant increase in Physician Associates arriving from overseas. If approved, it will still take some time to implement regulation, whether by standing up a new responsible authority or utilising an existing one. This is particularly the case when no New Zealand based scope of practice, standards, and competencies exist, and a Responsible Authority will need to undertake significant work establishing these or face the challenging task of enforcing standards set by multiple foreign regulatory bodies.

8. Do you agree that regulation under the HPCA Act is practical for the PA profession?

Regulation seems impractical at this stage. See comments provided for question seven.

9. Do you have anything to add to the consultation document's list of benefits and negative impacts of regulating the PA profession under the HPCA Act.

Benefits

Toi Mata Hauora ASMS has no additional benefits to add. We note that the Ministry has mentioned the potential for increased numbers of PAs leading to "more confusion around healthcare roles and

boundaries." We suggest this should be included under the 'negatives' rather than the 'benefits' of regulation.

Negatives

As described above, inadvertent consequences from regulating the Physician Associate profession are likely to occur, such as:

- Promoting use of an overseas trained workforce unfamiliar with the Aotearoa New Zealand context or Te Tiriti o Waitangi to plug gaps in underserved communities could exacerbate health inequities. This is particularly the case if Physician Associates are utilised to fill gaps left by medical practitioners.
- An influx of overseas trained Physician Associates would reduce the proportion of Māori and Pasifika health practitioners in Aotearoa.
- Increased supervisory workload on doctors will exacerbate bottlenecks in training of RMOs, nurse practitioners, nurse prescribers.
- Increased supervisory burden on an already stretched medical workforce.
- Confusion for patients and whānau about the difference between a medical practitioner and a Physician Associate.
- The Ministry's list of benefits of regulation notes Physician Associates are currently 'restricted by current supervision requirements' and unable to practice at the top of their scope. It is unclear what supervision requirements would relax if the Physician Associate profession was regulated. Relaxed supervision requirements may increase the risk to public health and safety.
- Tension between different health practitioner groups if inappropriate substitution of roles (rather than delegation) occurs, and if roles and responsibilities of the Physician Associate profession in the New Zealand is unclear. This tension is occurring in the United Kingdom currently.

10. Do you consider that the benefits to the public in regulating the Physician Associate profession outweigh the negative impact of regulation?

No, Toi Mata Hauora ASMS does not consider that the benefits to the public outweigh the negative impacts of regulation. It is premature to pursue regulation at this stage. It appears that the Ministry is pursuing regulation as a method of stimulating growth of a new workforce, rather than protecting public health and safety. Prior to going down a regulation pathway, we recommend that the Ministry of Health:

- Assesses the potential role of the Physician Associates in the Aotearoa health workforce from a strategic perspective, in light of Te Whatu Ora's Health Workforce Plan 2023/24, including whether needs could be better met by supporting already regulated professions.
- Works with nursing and medical education bodies to understand the potential impact on workforce pipelines for RMOs, nurse prescribers and nurse practitioners.

- Works with the New Zealand Physician Associate Society to develop a scope of practice, standards and a curriculum to consult on and obtain broad support from wider health practitioner groups, including nursing and medicine.
- Works with the New Zealand Physician Associate Society, and medical and nursing education bodies and unions to develop clear roles and responsibilities for Physician Associates that complement rather than substitute the roles of existing health practitioners.

11. Do you have any comments to make regarding PA practitioners' general agreement on qualifications, standards and competencies pursuant to s 116(b) of the HPCA Act?

As described above, the addendum to the consultation document outlines that Physician Associates generally agree that current certification from the United States, the United Kingdom or Canada will form the qualifications, standards and competencies for scope of practice. We consider that significant further work is required by the Physician Associate profession to narrow down and identify a qualification, standards and competencies fit for the Aotearoa New Zealand context.

We note that:

- It is unclear if the intent is to:
    - develop a New Zealand based training programme to then prescribe as the qualification, or
    - for the Responsible Authority concerned to prescribe multiple international qualifications to cover Physician Associates who work in New Zealand.
- It would be difficult for a New Zealand based Responsible Authority to accredit or monitor foreign education providers, limiting the ability to protect public health and safety.
- If multiple international qualifications were prescribed (Canada, United Kingdom and United States), it would create significant confusion in applying multiple sets of standards and competencies to a small workforce based in New Zealand. It would also create confusion in assessing Physician Associates who have trained in other international jurisdictions (e.g the Netherlands, Germany, India).
- The international jurisdictions listed will not cover critical Aotearoa New Zealand based content in their qualifications, in particular Te Tiriti o Waitangi, Tikanga Māori, and delivery of health services to whānau Māori. Aotearoa New Zealand has made recent progress in health education in re-framing from cultural competency to cultural safety – but it is evident from review that this distinction is absent in the international curricula provided in the addendum. No overseas jurisdiction would meet the threshold expected by the Medical Council of New Zealand regarding cultural safety.

Overall, Toi Mata Hauora ASMS considers that the addendum provides inadequate information about the agreed scope, standards and competencies in the Aotearoa New Zealand context.

Thank you once again for the opportunity to provide feedback. If you would like to discuss this submission further, please contact Harriet Wild or Virginia Mills in the first instance. Toi Mata Hauora ASMS looks forward to participating in a wider discussion on the role of Physician Associates in the Aotearoa New Zealand Health Workforce.

Nāku noa, nā

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