



**National Council of
Women of New Zealand**
Te Kaunihera Wahine o Aotearoa

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S19.11

Submission to the Medical Council of New Zealand review of its existing Statement on Information, Choice of Treatment and Informed Consent

Introduction

0.1. The National Council of Women of New Zealand, Te Kaunihera Wāhine o Aotearoa (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000, with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand, and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right. This submission has been prepared by the NCWNZ (Consumer Affairs) Standing Committee after consultation with the membership of NCWNZ.

1. NCWNZ Policy

1.1. Patient rights and the importance of patient advocacy are embedded within the constitution of NCWNZ. For this reason, NCWNZ members have contributed to a number of reviews endorsing the role of a patient advocate and for greater engagement with family, whanau and carers. NCWNZ policy resolution dating from 1988 addresses the specific issue of consent and observers as referred to in the Medical Council of New Zealand [MCNZ] Statement. In terms of women's healthcare and advocacy for those who are vulnerable, NCWNZ considers that ongoing improvements to the communication between doctors, patients and families is foundational to the improvement of our society. This is most clearly demonstrated in our submission to the Government Enquiry into Mental Health and Addiction.

2. Executive Summary

- 2.1. Research¹ shows that more women in New Zealand are in unpaid work and that much of that is as primary carers of dependents. Therefore, it is the view of NCWNZ, that women represent the majority of family, whanau and carers who are involved directly in healthcare decision-making, for themselves, their families and our communities.
- 2.2. NCWNZ members understand the importance of clear, comprehensive communication between doctors and patients. Improving healthcare outcome for all community members' communities is of integral value to NCWNZ. In responding to the revised process, our members have clearly articulated their expectations of this relationship. Members are clear that the key aspects of the consultation process between patient and doctor are the same for both parties: provision of information, opportunity for questions, active listening, and time for reflection.
- 2.3. The decision-making relating to the treatment is for the patient, next of kin, family, whanau or carer, occurs after the exchange of information. On the whole, NCWNZ members are supportive of the revisions to the statement, and see the improved language relating to the engagement with family, whanau and carers, as positive. Members however, remain concerned that there could be potential tension between maintaining the patient's autonomy and protecting their personal information and privacy, while at the same time allowing for medical professionals respond quickly in medical emergencies.

3. What does partnership mean in terms of the relationship between doctor and patient

- 3.1. Members consistently and clearly stated that the definition of a partnership is based on equality, mutual trust and respect, and total confidentiality. Evidence of a successful relationship can be demonstrated by honest, two-way communication, active listening, time for reflection and joint decision-making. The emphasis on these qualities and attributes suggests that the statement in this review could go further in defining the partnership relationship.
- 3.2. While acknowledging the experience and training of health professionals, NCWNZ members were determined that the patient's wishes about their own health care should be foremost and the patient has final say in how treatment progresses.
- 3.3. In addition to the many references to equality, the authority of the patient should also be emphasised. Members responded on a number of occasions, that patients are the authority on their own health, and should have the authority to make their own decisions.

¹ http://archive.stats.govt.nz/browse_for_stats/people_and_communities/time_use/gender-and-unpaid-work.aspx

4. Involvement of family/whanau and carers

- 4.1. NCWNZ members have a clear vision of the definition of encouragement, within the doctor patient partnership, and it is recommended that steps be taken to ensure that the involvement of family/whanau and carers needs to be defined, measured and judged. The method of encouragement needs to be demonstrable and documented. It is recommended recording documentation be developed to show that family/whanau and carers have been contacted, their names and relationships to the patient identified, the method of communication used and the resulting outcome. With patient consent being given, this information could be shared with other health professional staff and could mitigate against miss-communication between those staff, which could negatively affect the patient by causing delays in treatment for example.
- 4.2. In terms of defining the degree to which encouragement could be measured, our members had mixed responses. Some considered that "must encourage" was too strong and others suggested the wording be changed to "shall encourage." This reflects the tension in finding a balance between a consultative relationship (by engaging with family/whanau and carers), and at the same time maintaining the authority and the autonomy of the patient.
- 4.3. Additionally, NCWNZ members emphasised that although involvement of family is an important aspect, the patient wishes remain paramount. If a patient does not want family/whanau involved then, their wishes are to be respected, and this should be documented. While the doctor is to be encouraged to engage with family/whanau and carers, equally, there could be additional emphasis on patients encouraged to take a family member, support person and or carer to consultations. A number of NCWNZ member responses emphasised the value and importance of a support person and or advocate.

5. Involvement of an observer

- 5.1. NCWNZ constitutional resolutions² include a statement of expectations relating to student involvement, with a resolution stating that it be mandatory for consent to be obtained before participation. It is noted that "observer" in the Draft Statement is more inclusive than "student" and that this could include other healthcare professionals.
- 5.2. NCWZ members acknowledge the value of teaching hospitals, and that seeing and interacting with real patients is an important part of the learning and training. Several responses noted that the consent process is already in place and works well, while others emphasised that the discussion about an observer must occur prior to the observer being in room, to ensure that the patient is given a fair opportunity to make a considered decision. This reflects our diverse membership across New Zealand and that not all hospitals have students, so there is a range of experiences.
- 5.3. Again, members reiterated that the patient rights are paramount and that the patient has final say on attendance of an observer or not.

² 9.12 Patient's Rights

6. Mitigating the risks to vulnerable patients

- 6.1. To ensure that all reasonable steps have been taken for the patient to receive and comprehend the information and choices of treatment and give true consent, members strongly supported the use of written documentation in the form of a summary or notes of the discussion that has occurred. Members emphasised the importance of readability, and suggested checks for cultural or language bias.

7. Communicating the consequences of decision-making to the patient

- 7.1. Members believe that doctors must have excellent communication skills, the ability to make a judgement about the patient's level of understanding, and be able to adjust their communication to meet the needs of each patient. Strong listening skills were seen as necessary as well as the ability to check for comprehension. Members strongly recommend that there be supporting documentation, guides or notes made available to the patient.
- 7.2. Health care decisions require time to reflect on information and recommendations and this should be a carefully planned exercise, with clear steps and decision points, which the patient understands. To ensure that patients are fully informed the communication process should go as far as possible to mitigate the risks for patients who are cognitively impaired or who have memory loss. Members urge caution in where the patient may say 'Yes' early on in the consultation process.

8. Delegate to another doctor

- 8.1. Members acknowledge that delegation from one doctor to another is in many cases inevitable due to the specialist nature of treatment. However, members consider that the reason for the referral or delegation must be clearly explained to the patient, with particular emphasis on the benefits for the patient. As this can be a significant change in the relationship, members suggest that ideally this be a formal meeting or appointment. Members believed the transfer of information from one doctor to another should be clearly documented, with a copy of the notes given to the patient. Members commented that a new doctor needed to be adequately prepared to engage with the patient, by carefully reading the file notes beforehand and reviewing any other documentation.

9. Competency of doctor

- 9.1. NCWNZ members had mixed responses regarding doctors' competency with some responding that a doctor who may not be competent be required to refer to the appropriate authority. Other members were unsure how such competency could be judged, and suggested improved wording in this section to minimise ambiguity.

10. Resource and time constraints

- 10.1. NCWNZ Members consider that the quality of time spent forming a relationship and allowing for two-way communication is essential in the doctor patient relationship. Members again referred to written communication to avoid confusion, and commented on the benefits of a double appointment to ensure adequate time. Additionally members consider it important that during the consultation process doctors are transparent about their own position in terms of certain practices and procedures, if they are constrained by their own beliefs. Members acknowledge that there needs to be an opportunity to allow the doctor to opt out of continuing treatment without this negatively impacting on the patient.

11. When the patient is anaesthetised

- 11.1. NCWNZ members strongly believe that a patient who is anaesthetised should be afforded the same rights as one who is not anaesthetised and is fully conscious. It was noted that nothing should be done to a patient without their specific written or verbal permission unless it was a life-threatening situation.

12. Other comments

- 12.1. The importance of documentation to support and guide both doctor and patient is considered essential. The majority of members' responses referred to the value of a well-documented decision-making process. One submission went as far as to suggest a nationwide campaign for people of all ages, to consider their medical needs and to have these documented. It was suggested that this be particularly beneficial for the over 60-year age group for example. By having documentation in place pressure could be alleviated from doctors and family, whanau and carers who can find themselves in this situation.
- 12.2. A number of NCWNZ members stated that there needs to be greater awareness of the legal documentation that can be arranged to protect and support patients. These include Power of Attorney and an Advance/End of Life Directive, and that this information can be held on file. NCWNZ considers that there is great benefit to New Zealand society in considering these suggestions.

13. Conclusion

- 13.1. NCWNZ members consider the proposed changes to the Statement are in the best interests of the patient and are supportive of improved methods to involve family, whanau and carers. However, the rights of the patient need to remain paramount. For the patient to make an informed decision, an open and transparent relationship between the doctor and the patient must be established. Of equal importance and in parallel to the relationship, is excellent record keeping and documentation to support the consultation and decision-making process, and the development of a set of criteria to

describe, measure and document engagement with family, whanau and carers as agreed by the patient.

A handwritten signature in black ink, appearing to be 'Pip Jamieson', with a large, stylized initial 'P' and a long horizontal stroke extending to the right.

Pip Jamieson
NCWNZ Board

A handwritten signature in black ink, appearing to be 'Lucy Gray', with a large, stylized initial 'L' and a long horizontal stroke extending to the right.

Lucy Gray
Consumer Affairs Committee