

# Unregulated Health Care Workers, 2011

**The purpose of this statement is to outline NZNO's position on the use of unregulated health care workers in Aotearoa New Zealand.**

## Introduction

The term "unregulated health care worker" is used to describe the variety of health care workers who are not licensed or regulated by any governmental or regulatory body. Within this definition are both "health care assistants" (HCAs) and "other" unregulated health care workers such as paramedics<sup>1</sup>, physicians assistants<sup>2</sup>, operating department practitioners<sup>3</sup> and practice assistants<sup>4</sup>.

HCAs and other unregulated health care workers can be differentiated by their level of education and their relationship with registered nurses (RNs), enrolled nurses (ENs) and nurse practitioners (NPs).

HCAs "...assist registered nurses by completing personal care and other activities that do not require specialist nursing knowledge, judgement or skill" (Nursing Council of New Zealand, 2010, p. 10). HCAs do not usually hold qualifications above level 4 on the New Zealand Qualifications Authority (NZQA) Framework – NZNO does not support HCA qualifications beyond this level, as this potentially conflicts with regulated health professionals (NZNO, 2010).

"Other" unregulated health care workers such as paramedics, operating department practitioners, and physician's assistants may hold qualifications at Level 5 or above on the NZQA framework, may work independently of RNs, ENs and NPs by providing care that is not directed or delegated by a RN or NP, and may be used as substitutes for RNs in clinical situations. "Other" unregulated health care workers may work under the supervision of a regulated health professional as part of a multidisciplinary team.

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<sup>1</sup> A paramedic is a "...dynamic pre-hospital health professional who clearly understands and applies the science of emergency medicine <https://www.aut.ac.nz/research/academic-departments/paramedicine> Paramedics work in a range of urban and rural settings with some now starting to work in rural hospital settings due to a shortage of experienced nurses and medical practitioners (O'Brien, 2010).

<sup>2</sup> The physician's assistant role was first established in the United States of America in the 1960s following a period in which there were too few doctors to meet increasing patient expectations (Nassar & Bethel, 2009). Physician's assistant education is based on a medical model and encompasses partial preparation in medicine including undertaking a full medical history, undertaking comprehensive physical examination, requesting investigations and interpreting lab results, making diagnoses, and treating patients in consultation with supervising physicians (Nassar & Bethel, 2009). Physician's assistants in the USA are a regulated workforce and must be registered in the state they work in (Jolly, 2008).

<sup>3</sup> An operating department practitioners (ODP) provide patient care and skilled support alongside medical and nursing colleagues during peri-operative care (<http://www.nhs.uk/nhs-careers/nhs-careers/details/Default.aspx?id=255>). ODPs in the United Kingdom have recently become a regulated workforce but significant issues exist with regard to the role of the ODP and the registered nurse in the theatre setting with a lack of clarity surrounding the respective roles of each health practitioner (Timmins & Tanner, 2004).

<sup>4</sup> A practice assistant is a new term coined by Des Gorman of Health Workforce New Zealand to describe an unregulated health care worker with generic practice skills in a specialty area who assists a regulated health care practitioner to provide care.

There has been growing recognition, both within Aotearoa New Zealand and internationally, of the role HCAs and “other” unregulated health care workers have in the provision of health care. There is also growing concern regarding the level and consistency of education and knowledge HCAs, in particular, bring to direct care roles, and the use of “other” unregulated health care workers in substitution roles. Both issues raise questions around public safety.

Global health workforce shortages, along with increasing workforce pressures within Aotearoa New Zealand (including demand for cost savings), has seen significant growth in the employment of an unregulated health workforce. This workforce is anticipated to grow further in coming years and according to District Health Board New Zealand (DHBNZ) will play a critical role in the sustainability of health care. (*DHBNZ Future Workforce, 2009*). Despite the significance of this workforce, no strategy exists to inform its ongoing development and there has been no discussion around how unregulated health care workers will contribute to the collaborative team to improve health outcomes. In addition, the full scope of nurses has not been well utilised in many areas where “other” unregulated health care workers are beginning to be established. For example, legislative and funding barriers to NP utilisation and other organisational policies limit the ability of the regulated nursing workforce to provide effective care in many situations where this care would be appropriate and safe. NZNO is concerned that decisions are being made regarding skill mix on the basis of perceived short term cost efficiencies, with little regard for the longer term effects on patient outcomes.

This position statement considers the accountability, safety and substitution of HCAs and “other” unregulated health care workers in the health care sector.

## Health Care Assistants

HCAs make up a large (as yet uncounted) and growing sector of the health workforce. HCAs are employed under a range of titles (including caregivers, health care workers, health assistants, kaimahi hauora, hospital aides, and HCAs), and in a range of settings. For the purposes of this document the term HCA is used. A NZNO survey of HCAs indicated this is their preferred title, as it differentiates them from unpaid caregivers and acknowledges their role as helping others in the health care team (Walker, 2009).

## Accountability

HCAs are not regulated under the Health Practitioners Competence Assurance (HPCA) Act 2003, however they are expected to work within other legislative requirements such as the Code of Health & Disability Services Consumers Rights (1996) and the Health and Disability Services Standards (2008) (*Weston, 2010*). HCAs are not regulated by the Nursing or Midwifery Councils of New Zealand, therefore will not be investigated by these Councils if there is an adverse outcome or complaint. However, HCAs can be investigated by agencies such as the Health & Disability Commissioner and HCAs must be made aware of this during their orientation to a new position.

RNs, registered midwives and NPs may direct and delegate the work of HCAs and ENs may co-ordinate the work of HCAs, but considerable risks exist where there are unclear standards of practice of individual HCAs. The Nursing Council of New Zealand, the International Council of Nurses, and the Royal College of Nurses (United Kingdom) acknowledge the existence of such risks and have produced guidelines to assist RNs in determining when, how and what delegation of tasks should occur (*Nursing Council of New Zealand, 2010; International Council of Nurses, 2008; Hopkins, Hughes & Vaughan, 2008*).

The Nursing Council of New Zealand (2010) indicates that where direction and delegation to HCAs is occurring, then the person carrying out the directed or delegated duties has the following responsibilities:

- > the person performing the delegated activity is accountable for his or her own actions
- > the person should inform the RN if the delegated task appears more complex, or if they are uncertain of the requirements or the patient's/client's response at any stage of the activity
- > the person must not accept any direction or delegation they feel is beyond their capabilities
- > the person should inform the RN if they have not been trained to perform an activity

The RN is responsible for ensuring any delegation and direction of care is appropriate and safe. The RN is also responsible for monitoring and evaluating the outcomes of delegated nursing care, and, as such, must be aware that while the RN may take a comprehensive approach to patient care, the HCA may focus on completion of delegated tasks (Nursing Council of New Zealand, 2010). RNs must understand the role of the HCA to ensure they do not direct or delegate care that is beyond the limits of the HCA's education or competence (*Nursing Council of New Zealand, 2010*). Where unsafe or inappropriate direction or delegation occurs, the RN will be held responsible.

There is no legislation that regulates either the training or the work of HCAs. HCAs can legally provide most nursing tasks, if delegated or directed to do so by a RN.

**NZNO supports the Nursing Council of New Zealand's position that HCAs are accountable for their own actions.**

### Safety

HCAs can make a valuable contribution to patient care, however they must be suitably supported to achieve this safely and within appropriate parameters. A clear position description detailing the role and responsibilities must be given to the HCA on appointment. HCAs must be oriented to the workplace prior to any patient contact, be engaged in regular performance appraisal, have in place a staff development plan, and be subject to organisational performance management criteria as required. HCAs who choose to develop their careers and undertake study toward an EN or RN qualification should be supported in their endeavours.

HCAs are not required to undertake a specific course of study relevant to health care practice. The limitations of this workforce must be recognised. HCAs do not hold the same skills or qualifications as ENs and RNs and must only provide direct patient care under direction and delegation of an RN. ENs may, under the revised EN scope of practice (*Nursing Council of New Zealand, 2010*), co-ordinate HCA work – however delegation in this case must still come from an RN. While many HCAs may have studied at level 3 or 4 on the NZQA framework, many have not had this level of education and it is difficult to determine the level at which the individual HCA fully understands the implications of undertaking a delegated or directed task and any potential risk to patient safety. Patient safety is the most important aspect in the provision of health care and HCAs remain an unregulated workforce who must not be placed in positions of responsibility for patient care.

Many HCAs working in the older adult care sector have undertaken some training but this varies across health care providers (*Walker, 2009*). Work is underway in some acute care (DHB) settings to provide in-house training for HCAs (eg the Waikato DHB), but again, this varies across providers, and many HCAs provide direct care to patients with little or no training (*Walker, 2009*).

DHBNZ, in collaboration with NZNO, has recently released a guideline (Manning & Henderson, 2010) that provides some structure around the HCA role in DHB acute care settings and also provides a template position description. NZNO recommends DHBs refer to this document before employing HCAs in acute settings.

The NZNO have published a position statement that supports standardised, appropriately funded and nationally accessible education for unregulated health care workers (NZNO, 2010).

Where there have been issues raised in regard to concerns about quality of care or appropriateness, an RN, EN or NP can be investigated by the Nursing Council, potentially removed from the register, and no longer able to practise as a nurse. No such protection exists with HCAs, who can move on to other employment. If pre-employment checks are not robust, the same behaviours and poor standards of care can continue to occur in a new employment setting.

**Where a choice exists between employing an EN or a HCA to deliver direct patient care, ENs who are regulated under the HPCA Act (2003) to ensure public safety, should be the health professionals of choice.**

### Substitution

While direction and delegation of tasks to HCAs is appropriate when undertaken following the Nursing Council of New Zealand guidelines (Nursing Council of New Zealand, 2010), HCAs should never be used in the place of an EN, RN or NP in providing care. ENs, RNs and NPs undertake a specific course of study accredited by the Nursing Council of New Zealand that qualifies them to provide nursing care within their assessed level of competence. There is no such requirement for HCAs.

**HCAs should never be used in place of ENs, RNs or NPs.**

### Other' Unregulated Health Care Workers

The "other" unregulated health care workers category includes all unregulated health care workers not covered above. This includes physicians' assistants, operating department practitioners, paramedics, practice assistants and any other cadre of unregulated health care worker. While paramedics have been a part of the health workforce for many years, physicians' assistants, operating department practitioners (ODP) and other new cadres of health care worker are beginning to have a presence.

There is concern these new health care workers are being supplanted into the New Zealand health care system without the educational or regulatory frameworks that are present in their countries of origin. Health Workforce New Zealand (HWNZ) continues to push for innovation by employing new cadres of health care worker without sufficient

regard to the factors that will impact on patient safety and the health professionals who will be required to direct and delegate these groups. Health professionals who will be affected by the employment of new cadres of health care worker are frequently not consulted in decision making about these roles (e.g., the employment of ODPs in Tairāwhiti DHB has occurred with no consultation with the RNs most likely to be affected by their employment).

A joint health professions' statement issued by the World Health Professionals' Alliance comprising the International Council of Nurses (ICN), the International Hospital Federation, the International Pharmaceutical Federation, the World Confederation for Physical Therapy, the World Dental Federation and the World Medical Association indicates that task shifting and adding new cadres of worker results in fragmented and inefficient health services and that "...whatever the strategy selected, task-shifting should not replace the development of sustainable, fully functioning health care systems. It is not the answer to ensuring comprehensive care, including secondary care, is accessible to all" (ICN, 2010, p. 14).

With this in mind, it is important that NZNO articulate its position on the development of new cadres of health care worker and the growing use of unregulated health care workers such as physicians' assistants and operating department practitioners. While other cadres of health care worker are likely to develop over the coming years, there are a number of factors that must be considered when developing such roles. As for HCAs, these include accountability, safety and substitution.

### Accountability

As for HCAs, "other" unregulated health care workers such as physicians' assistants, ODPs and paramedics are not regulated under the HPCA Act (2003), although they are expected to work within other legislative requirements such as the Code of Health & Disability Services Consumers Rights (1996) and the Health and Disability Services Standards (2008). The practice of any of these "other" health care workers can be investigated by agencies such as the Health & Disability Commissioner where warranted, however no regulatory body exists to oversee the practice of these health care workers.

"Other" unregulated health care workers must be accountable for their practice and employers must ensure those people employed into such positions are aware of their accountability.

**All "other" unregulated health care workers must be accountable for their practice.**

### Safety

As long as health care workers remain unregulated, a risk to public safety will exist. Regulation under the HPCA Act (2003) ensures the health and safety of members of the public is protected by providing mechanisms to ensure health practitioners are competent and fit to practice their profession (Ministry of Health, 2010).

Regulatory authorities such as the Nursing Council of New Zealand are established under the Act to:

- > describe their professions in terms of one or more scopes of practice with associated qualifications
- > register and issue annual practising certificates to practitioners
- > who have shown continuing competence

- > review and promote ongoing competence
- > consider practitioners who may be unfit to practise
- > set standards of clinical competence, cultural competence and ethical conduct
- > establish professional conduct committees to investigate practitioners in certain circumstances

*(Ministry of Health, 2010)*

The Ministry of Health (2010) suggests the following criteria be applied to any group of health practitioners when considering the need for regulation:

Does the health practitioner:

- > undertake invasive procedures (such as cutting under the skin)
- > undertake clinical intervention with the potential for harm
- > make decisions or exercise judgement which can substantially impact on patient health or welfare, including situations where individuals work autonomously, i.e., unsupervised by other health professionals?

The provisions of the HPCA Act (2003) are designed to ensure public safety. NZNO believes health practitioners providing care to people that is not directed or delegated by a regulated health practitioner, and/or that meets the threshold for regulation outlined above, should be regulated under the HPCA Act (2003).

**NZNO supports the regulation of health practitioners who provide health care to people that is not under the direction or delegation of a regulated health professional and/or meets the threshold proposed by the Ministry of Health (2010) in order to ensure public safety.**

## Substitution

Issues associated with substitution occur when an unregulated health care worker takes on a role or task normally performed by a regulated health care worker.

Task substitution occurs where a health care worker may take on some of the tasks traditionally performed by another. For example, it is well documented that NPs can safely and effectively undertake 80 percent of the tasks of GPs for adults in primary care (*Gilmer & Smith, 2009*), but that is different from NPs taking over the role of the GP (role substitution). In fact, NPs complement the role of the GP by providing expert nursing care through the addition of a number of skills that may overlap with GP skills, but they do not take over the role of the GP.

There are a number of areas where role substitution of regulated health professionals by unregulated health care workers may occur and that place the public at risk. This includes paramedics working in emergency departments, ODPs in operating theatres, and physicians' assistants in surgical care, where suitably qualified RNs and medical practitioners are unable to be appointed.

The inability to appoint a suitably qualified and regulated health professional to a role is not an excuse for appointing an unregulated health care worker to such a position. Regulated health professionals must meet strict standards of practice set out by their respective regulating bodies, ensuring safeguards for the public. The appointment of



unregulated health care workers into roles that should be filled by regulated health professionals is inappropriate. Strategies to address regulated health workforce shortages must be developed to address these issues, if public safety is to be assured.

While there has been some argument that the RN scope of practice has limited the RNs' ability to take on more advanced roles, the new scope of RN practice released by the Nursing Council of New Zealand in 2010 ([www.nursingcouncil.org.nz](http://www.nursingcouncil.org.nz)) ameliorates these issues and enable RNs to take on many of the advanced roles required in the health sector in a safe and effective manner. In addition, the new scope of practice for ENs also released in 2010 ([www.nursincouncil.org.nz](http://www.nursincouncil.org.nz)) provides a regulated second-level nurse workforce that supports the provision of safe and effective nursing care.

**NZNO does not support the substitution of regulated health professionals with unregulated health care workers.**

## Glossary

*Operating Department Practitioner.* Operating Department Practitioners (ODPs) are health care professionals working in the United Kingdom. They are mainly employed in surgical operating departments but can be found in other clinical areas including Accident & Emergency (A&E), Intensive Care ICU/ITU units and the Ambulance Service. ODPs are involved with the overall planning and delivery of a patient's perioperative care ([http://en.wikipedia.org/wiki/Operating Department\\_ Practitioners](http://en.wikipedia.org/wiki/Operating_Department_Practitioners)). ODPs are regulated health professionals in the UK.

*Paramedic:* A paramedic is a medical professional, usually working as part of the emergency medical services provision in a given area. Their primary role is to provide pre hospital advanced medical and trauma care, followed, where appropriate, by transfer to definitive care. Paramedics in the UK, USA and Germany are regulated health professionals (<http://en.wikipedia.org/wiki/Paramedic>).

*Physicians' Assistant:* A physicians' assistant is concerned with preventing, maintaining, and treating human illness and injury by providing a broad range of health care services that are traditionally performed by a physician. In the USA, physicians' assistants conduct physical exams, diagnose and treat illnesses, order and interpret tests, counsel on preventive health care, assist in surgery, and write prescriptions ([http://en.wikipedia.org/wiki/Physician%27s\\_assistant](http://en.wikipedia.org/wiki/Physician%27s_assistant)). Physicians' assistants are regulated health professionals in the USA.

*Practice Assistant:* An unregulated health care worker who works under the supervision of a regulated health practitioner assisting them with tasks such as clerical work, follow up on laboratory and diagnostic tests, and assisting people to prepare for theatre and other procedures. The practice assistant has generic skills in the practice area. (D. Gorman, interview on Radio New Zealand with Kathryn Ryan, 20 October, 2010).

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#### **Mission statement**

NZNO is committed to the representation of members and the promotion of nursing and midwifery. NZNO embraces Te Tiriti o Waitangi and works to improve the health status of all peoples of Aotearoa/ New Zealand through participation in health and social policy development.

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